

JOURNAL
OF THE
HOUSE OF DELEGATES
EIGHTY-SIXTH
LEGISLATURE
OF
WEST VIRGINIA



VOLUME II
REGULAR SESSION, 2023

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

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF

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CLERK OF THE HOUSE



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Tuesday, February 28, 2023

FORTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 27, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that Com. Sub. for H. B. 3480, on Second Reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for H. B. 3482, on Second Reading, House Calendar had been transferred to the Special Calendar; and, H. B. 3511, H. B. 3512, H. B. 3513, H. B. 3514, H. B. 3515, H. B. 3516, H. B. 3517, H. B. 3518, and H. B. 3524, on First Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 490, Patrol Officer Cassie Marie Johnson Memorial Act,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 430, Relating to State Treasurer's authority to contract with financial institutions for banking goods and services,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 430) to the Committee on the Judiciary was abrogated.

Messages from the Executive and Other Communications

A communication from the Clerk of the Senate to His Excellency, the Governor, advised that S. B. 128 was presented to the Governor on February 27, 2023.

The Clerk announced that Com. Sub. for H. B. 2596, Com. Sub. for H. B. 3055, Com. Sub. for H. B. 2006 and Com. Sub. for H. B. 3122 were presented to the Governor on February 27, 2023.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2062, Establish rules and regulations for e-bikes in West Virginia that more closely comport to federal law.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3340, To revise the West Virginia Tax Increment Financing Act.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 267 - “A Bill to amend and reenact §5-16-7f of the Code of West Virginia, as amended; to amend said code by adding thereto a new section, designated §9-5-31; to amend and reenact §33-15-4s of said code; to amend and reenact §33-16-3dd of said code; to amend and reenact §33-24-7s of said code; to amend and reenact §33-25-8p of said code; and to amend and reenact §33-25A-8s, all relating to prior authorizations; defining terms; requiring prior authorizations and relating communications to be submitted via an electronic portal; requiring electronic notification to the health care provider confirming receipt of the prior authorization; establishing timelines for compliance; providing communication via the portal regarding the current status of the prior authorization; reducing time frames for prior authorization requests; providing a time frame for a decision to be rendered after the receipt of additional information; providing a time frame for a claim to be submitted to audit or if the step therapy is incomplete; establishing time frame for peer-to-peer appeal; reducing timeline for prior authorization appeal process; revising the percentage approval for a health care provider to be considered for an exemption from prior authorization criteria; revising time frame for prior authorization exemption process; removing limitation on prior authorization exemption that applied exemption to procedures used to justify granting of exemption; expanding auditing of prior authorization exemption process; requiring plan to give health care practitioner rationale for revocation of exemption; providing for limitations to exemption; removing criteria related to electronic submission of pharmacy benefits; amending effective date; requiring oversight and data collection by the Office of the Insurance Commissioner and the Inspector General; and providing for civil penalties”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 438 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, and §11-13MM-6, all relating to creating the Return to West Virginia Tax Credit Act; providing for a title, findings, and purpose; providing for a non-refundable credit against state personal income taxes; providing a definition; providing for limitations and eligibility requirements of the credit; authorizing legislative rule; authorizing the Tax Commissioner to create forms and require documentation; providing for effective and expiration dates of the credit; and requiring reporting”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 522 - “A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to allocating a percentage of county excise taxes received from transfers of title to real estate in each county for funding improvements to election administration, infrastructure, and physical and cyber security; accelerating rate at which counties retain excise taxes from transfers of title to real estate in county; allocating a percentage of county excise taxes received from transfers of title to real estate in each county for funding other county purposes including, but not limited to, compliance with the Uniform Real Property Electronic Recording Act; authorizing the Secretary of State to promulgate legislative rules establishing minimum adequate funding thresholds and standards based on county classification for improving election administration, infrastructure, and security; and authorizing county clerks to reallocate the excess portion of funding for improving election administration, infrastructure, and security to other approved

county purposes upon determination by the Secretary of State that the minimum funding thresholds and standards have been met”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 534 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-26; to amend and reenact §11-16-3, §11-16-6a, §11-16-6d, §11-16-6f, §11-16-8, §11-16-9 of said code; to amend and reenact §60-3A-3a, and §60-3A-8 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-2, §60-7-2a, §60-7-6, and §60-7-8a of said code; to amend said code by adding thereto a new section designated §60-7-8g; to amend said code by adding thereto a new section, designated §60-8-6g; to amend and reenact §60-8A-5 of said code; and to amend and reenact §61-8-27 of said code; all relating to nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor license requirements; defining terms; authorizing municipalities to create private outdoor designated areas; creating special permit for Class A licensees who apply to be qualified permit holders to operate in private outdoor designated areas, setting forth requirements, and setting fees; promoting tourism in the state by permitting authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries a limited off-site retail privilege for off-premises consumption sales for nonintoxicating beer manufactured by them and permitting limited complimentary samples at private fair and festivals; providing requirements for the conduct of the sales at private fairs and festivals; requiring payment of taxes, fees and markups, and no license fee; clarifying the nonintoxicating beer growler requirements for contents and sealing; allowing brewer and resident brewer to have additional places of manufacture under one license and based on manufacturing volume capacity; removing limit on nonintoxicating beer or nonintoxicating craft beer which may be included with an order, sale or delivery of multiple meals;

allowing commissioner to refuse a license if applicant or manager is not a suitable applicant; increasing number and size of liquor samples that are permitted; requiring manager to be suitable applicant and of good moral character; reducing and modifying food inventory required for private cigar shop, private club bars, and private food truck; allowing a private manufacturer club to have operating food truck or other portable kitchen in lieu of on-premises food preparation facilities; removing acreage requirement for private wedding venue or barn license; clarifying nonintoxicating beer license requirements for persons, trusts and fairs and festivals; clarifying retail liquor outlet license requirements for applicants; clarifying that the statute applying to distilleries and mini-distilleries also applies to micro-distilleries; permitting dually licensed events, and a license fee; creating a private coliseum or center license and specifying license requirements; authorizing private coliseum or center license to conduct a temporary event in conjunction with a private fair and festival licensee and setting forth requirements; setting fees; increasing fee for private fair and festival special license and fee; creating a private food court license and specifying license requirements; lawful admission to dance hall; clarifying dual licensing requirements and authorization for private fair and festivals, requirements, and no license fee; permitting private fairs and festivals to conduct on-premises consumption sales with certain requirements; permitting private fairs and festivals to allow authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries to conduct limited off-premises consumption retail sales with certain requirements from the private fair and festival's licensed premises; permitting a private wine restaurant to operate a separately licensed but connected wine specialty shop; and exempting permit holder operating a private outdoor designated area, private coliseum or center licensee, or private food court from prohibition on admitting persons under the age of 18"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 561 - “A Bill to repeal §16-13C-1, §16-13C-2, §16-13C-3, §16-13C-4, §16-13C-5, and §16-13C-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §22-36-1, §22-36-2, §22-36-3, §22-36-4, §22-36-5, §22-36-6, §22-36-7, and §22-36-8, all relating to the administration of the West Virginia Drinking Water Treatment Revolving Fund; transferring administration of Drinking Water Treatment Revolving Fund from Department of Health and Human Resources to Department of Environmental Protection; adding provisions to Drinking Water Treatment Revolving Fund article relating to state construction grants program and review of projects funded by Drinking Water Treatment Revolving Fund; directing Department of Environmental Protection to propose legislative rules for state construction grants program; and directing Department of Environmental Protection to propose legislative rules for environmental review of each project funded by the Drinking Water Treatment Revolving Fund”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 576 - “A Bill to amend and reenact §32-4-407a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §32-7-701, §32-7-702, §32-7-703, §32-7-704, §32-7-705, §32-7-706, §32-7-707, §32-7-708, §32-7-709, §32-7-710, §32-7-711, and §32-7-712, all relating generally to authorizing victim restitution and creating a restitution assistance fund for victims of securities violations; providing a short title; providing definitions; creating the Securities Restitution Assistance Fund; authorizing the awarding of restitution in an administrative assessment; providing

for the manner and procedures for applications for restitution assistance; providing the manner and procedures for the payment of restitution assistance awards; detailing the situations in which restitution is prohibited; providing for subrogation; providing for a lien on recovery and refunds of excessive restitution amounts; providing for the suspension of claims; exempting the restitution awards from attachment or intercept; authorizing the Auditor to promulgate rules regarding the restitution program; and providing an effective date”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 590 - “A Bill to amend and reenact §16-5V-2, §16-5V-6, and §16-5V-14a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a two new sections, designated §16-5V-6c and §16-5V-6d, all relating to the Emergency Medical Services Retirement System; defining terms; updating terms to comply with federal laws; authorizing certain 911 personnel to be members of the Emergency Medical Services Retirement System under certain circumstances; requiring costs of the vote to participate be borne by participating employers in relative proportion to members employed; providing for transfer of assets pertaining to 911 personnel; requiring certain computations to be made by the Consolidated Public Retirement Board; requiring administrative costs of the Consolidated Public Retirement Board for transfer of assets pertaining to 911 personnel be borne by participating employers in relative proportion to members employed; terminating liability of the Public Employees Retirement System; and providing for purchase of service time through payment”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 613 - “A Bill to amend and reenact §16-2D-2, §16-2D-8, §16-2D-10, and §16-2D-11 of the Code of West Virginia, as amended, all relating to certificate of need; defining terms; removing birthing centers from the list of reviewable services; providing physician office practice meeting specified criteria may acquire an utilize one magnetic resonance imaging scanner; providing for data verification; providing that hospitals performing hospital services are exempt from certificate of need requirements; providing that birthing centers are exempt from certificate of need review; and removing an exemption for hospital based birthing centers”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 628 - “A Bill to amend and reenact §18-5-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-7, §18-5G-12, and §18-5G-15 of said code; and to amend and reenact §18-9A-15 of said code, all relating to revising provisions related to public charter schools; providing public charter school access to funding from School Safety Fund; modifying priorities for funds use; requiring rule on process for needs-based funding requests; expressing legislative intent on comparable levels of funding for public charter school students; authorizing state institution of higher education as applicant; prohibiting imposition of requirements on public charter schools choosing to incorporate post-secondary, industry and workforce programs that are not required of noncharter public schools; authorizing public charter schools to include before and after school programs in their education program; excluding public charter school programs from regulation as child care facility; authorizing public charter school students to participate on the same basis as other public school students in extracurricular athletic and academic interscholastic activities sponsored by noncharter public school serving attendance area if not sponsored

by charter school; clarifying public charter schools are exempt from state board policies unless otherwise specifically provided; requiring professional charter school board to consult with nationally recognized organizations along with the state board; requiring state board to establish framework and procedures for interaction between public charter schools and county boards to facilitate cooperation and ensure prompt transfer of records; providing for invoicing of certain funding when student transfers from and to certain entities after the beginning of the school year; prohibiting sale or other transfer of public facility after public charter school requests usage; authorizing professional charter school board to receive and expend gifts, grants, and donations to carry out purposes of act, to apply for federal funds to implement programs, and to make start-up grants to public charter schools; and requiring for state board rule on method for providing increased enrollment funding for public charter schools”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 667 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e, relating to requiring the Legislative Auditor to conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 677 - “A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; to repeal §15-5-4b, §15-5-4c, §15-5-24, §15-5-25, and §15-5-26, and of said code; to amend and reenact §29-31-1 and §29-31-2 of said code; to amend said code by adding thereto new sections, designated §29-

31-2a; to amend and reenact §29-31-3 of said code; and to amend said code by adding thereto new sections, designated §29-31-6, §29-31-7, §29-31-8, §29-31-9, §29-31-10, §29-31-11, §29-31-12, §29-31-13, §29-31-14, and §29-31-15, all relating to the West Virginia Disaster Recovery Trust Fund and clarification of roles and responsibilities of the State Resiliency Officer; requiring the State Resiliency Officer to submit a new Flood Resiliency Plan by a date certain and then biannually thereafter; directing the State Resiliency Officer to hire additional staff; removing the West Virginia Disaster Recovery Trust Fund from the jurisdiction of the Division of Homeland Security and Emergency Management; providing initial capital for the State Resiliency Office; allowing for disbursement of post-disaster recovery assistance; requiring that 50 percent of disbursements be expended to benefit low-income communities; requiring resilience and mitigation certifications prior to disbursement to political subdivisions; requiring the State Resiliency Officer to develop an annual expenditure report; establishing the West Virginia Resiliency Trust Fund within the State Resiliency and Flood Protection Act; requiring 50 percent of disbursements be expended to implement nature-based solutions; allowing for grants to political subdivisions for both Flood Resiliency Plan implementation and local flood prevention and protection studies; and requiring 25 percent of Community Development Block Grant Disaster Recovery Funds received by the state as a result of a flood disaster to be deposited in the Flood Resiliency Trust Fund”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 679 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §27-9-2, relating to forensic group homes; requiring the Office of Inspector General to propose rules regulating a forensic group homes location; and providing for variance for existing providers”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 688 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-50, relating to allowing county boards of education to contract with retired teachers to provide tutoring services in reading and math to support the need of one-on-one intervention for students; stating purpose; defining terms; providing tutor eligibility requirements; providing exclusions from eligibility; limiting civil and criminal liability of county school board; and providing miscellaneous provisions regarding program”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 733 - “A Bill to amend and reenact §20-2-421 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2B-7 and §20-2B-8 of said code, all relating to wildlife licenses and stamps; clarifying right to carry firearm for self-defense without Class A-1 small arms hunting stamp; creating nonresident lifetime hunting, fishing, and trapping licenses; and establishing privileges of nonresident lifetime licenses”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 735 - “A Bill to amend and reenact §5B-1A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5B-2-15 of said code, to amend and reenact §5B-2A-3 and §5-2A-4 of said code; to amend and reenact §5B-8-1 of said code; to amend and reenact §11-13X-9 of said code; and to amend and

reenact §31G-1-5 and §31G-1-14 of said code, all relating to clarifying the department responsible for the administration of certain programs”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 737 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-4C-25, relating to emergency medical services funding; creating a special revenue account; providing for administration of the fund by the Office of Emergency Medical Services; providing for rulemaking; and requiring an annual report”; which was referred to the Committee on Finance.

Resolutions Introduced

A Resolution was introduced and referred as follows:

By Delegate Jeffries:

H. C. R. 61 – “Requesting the Division of Highways name a portion of Poca Fork Road at the mouth of Patterson Drive in Elkview, Kanawha County, West Virginia as the ‘US Army Sgt. John Edsel Edens Memorial Road’”; to the Committee on Rules.

Motions

At the request of Delegate Ridenour, and in the absence of objection, the comments of the Delegate on yesterday regarding H. C. R. 44 will be included in the bound Journal (Appendix).

Special Calendar

Unfinished Business

H. R. 17, Urging the West Virginia Geologic and Economic Survey to work with groups to evaluate policy options to encourage the capture and beneficial use of coal mine methane; coming up in

regular order, as unfinished business, was reported by the Clerk, and adopted.

Com. Sub. for H. C. R. 31, Permitting the West Virginia Department of Tourism to proceed with procuring bids/interest in companies to place a lodge on the property of Beech Fork Lake; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

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

Third Reading

Com. Sub. for H. B. 2814, To create a Hydrogen power task force; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 323**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Chiarelli, Coop-Gonzalez, Dean, Dillon, Foster, A. Hall, Longanacre, Reynolds, Ridenour, Storch and Vance.

Absent and Not Voting: Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2814) passed.

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

H. B. 2875, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home

study performed by the DHHR; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 324**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2875) passed.

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

H. B. 2906, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 325**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2906) passed.

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

On this question, the yeas and nays were taken (**Roll No. 326**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2906) takes effect from its passage.

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

Com. Sub. for H. B. 2910, Making a supplementary appropriation to the Department of Administration, Public Defender Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 327**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Longanacre.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2910) passed.

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

On this question, the yeas and nays were taken (**Roll No. 328**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2910) takes effect from its passage.

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

H. B. 2915, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2915) passed.

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

On this question, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2915) takes effect from its passage.

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

Com. Sub. for H. B. 2953, Creating the Commission on Cost-of-Living Adjustments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 42, nays 56, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Capito, Clark, Criss, Ellington, Espinosa, Ferrell, Forsht, Garcia, Hansen, Hardy, Heckert, Hite, Hornbuckle, Hornby, Horst, Hott, Householder, Howell, Jennings, Kelly, Kump, Lucas, Maynor, Miller, Petitto, Pushkin, Ridenour, Riley, Rowe, Skaff, Statler, Storch, Summers, Thorne, Walker, Westfall, Williams, Willis, Worrell, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Fluharty and Young.

So, a majority of the members present not having voted in the affirmative, the bill (Com. Sub. for H. B. 2953) was rejected.

Com. Sub. for H. B. 2989, Relating to increasing the number of out-of-state medical students receiving in-state tuition rates who

agree to practice for a specific time within West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez.

Absent and Not Voting: Honaker, Ridenour, Steele, Westfall, Willis and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2989) passed.

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

Com. Sub. for H. B. 3035, Relating generally to high-quality education programs and school operations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 333**), and there were—yeas 71, nays 20, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Dean, Dillon, Fluharty, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Longanacre, Nestor, E. Pritt, Pushkin, Ridenour, Rowe, Skaff, Steele, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Foster, Garcia, Heckert, Kelly, Martin, Pinson, Shamblin and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3035) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3035 – “A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-13; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend said code by adding thereto a new section, designated §18A-5-9, all relating generally to high quality education programs and school operations; replacing transformative intervention framework with a statewide multi-tiered system of support that addresses both reading and mathematics; requiring identification and monitoring of student progress; requiring use of screener and/or benchmark assessments; providing for assessment system and requiring state board adoption of approved list of not more than three screener assessments and setting forth considerations therefore; requiring that the state board establish of cut scores for screener and/or benchmark assessments; requiring development of best practices document; providing for services to be provided to students exhibiting substantial deficiency; specifying minimum information and notice to parent or guardian; providing for professional learning for certain teachers and assistant teachers and specifying subjects; ensuring certain training and instruction be provided by education preparation programs that prepare candidates seeking licensure for elementary education; authorizing extended year attendance requirement as condition for promotion if certain conditions are met; providing for data from the screening and /or benchmark assessments and other data to be used to inform classroom teacher’s recommendation regarding grade level retention; requiring county board implementation; requiring reports by state board; requiring certain legislative appropriation and other funds be used for implementation; requiring retention in third grade of public school student who demonstrates minimal grade level understanding and ability upon recommendation of teacher and student assistance team; providing exceptions; requiring students starting in the fourth grade who score below proficient in English language arts or mathematics on general summative assessment to continue to be provided intervention until grade level proficient; establishing the

Grow Your Own West Virginia Pathway to Teaching Program; requiring state board to promulgate rules to govern the program and grant funds; requiring reporting by state superintendent on program; requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels; removing outdated provisions; increasing ratios of service personnel per student net enrollment in state basic foundation program; requiring early childhood classroom assistant teachers exercise authority and control over students in certain instances and within certain limits; prohibiting assignment of noninstructional duties to early childhood classroom assistant teacher in excess of contractual requirements unless mutually agreed upon; and requiring in-service training for early childhood classroom assistant teachers on responsibilities and appropriate measures for exercising authority and control over students; requiring in-service training for classroom teachers on utilization of early childhood classroom assistant teachers.”

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

H. B. 3066, Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 334**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Bridges, Garcia, Hite, Kelly, Pushkin, Smith, Williams and Zatezalo.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3066) passed.

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

On this question, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Garcia, Hite, Kelly, Kump, Linville, Pushkin, Smith, Williams and Zatezalo.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3066) takes effect from its passage.

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

H. B. 3072, Supplementing and amending appropriations to Department of Homeland Security, Division of Administrative Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 89, nays 1, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Bridges, Foggin, Garcia, Hite, Kump, Linville, E. Pritt, Pushkin, Williams and Zatezalo.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3072) passed.

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

On this question, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foggin, Linville, E. Pritt, Ross and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3072) takes effect from its passage.

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

Com. Sub. for H. B. 3084, Relating to revising provisions related to public charter schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 65, nays 24, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Adkins, Anderson, Dean, Dillon, Dittman, Ferrell, Fluharty, Garcia, A. Hall, W. Hall, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Reynolds, Rohrbach, Shamblin, Storch, Toney, Vance, Walker, Warner and Williams.

Absent and Not Voting: Barnhart, Bridges, Foster, Hanna, Hardy, Keaton, Riley, Skaff, Street, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3084) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 74, nays 15, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Adkins, Dean, Dillon, Dittman, Ferrell, Garcia, A. Hall, Hansen, Kirby, E. Pritt, Pushkin, Shamblin, Vance, Walker and Williams.

Absent and Not Voting: Barnhart, Bridges, Foster, Hanna, Hardy, Keaton, Riley, Skaff, Street, Worrell and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3084) takes effect July 1, 2023.

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

Com. Sub. for H. B. 3095, Creating special revenue account known as School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 73, nays 24, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Adkins, Bridges, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Dillon, Fast, Foster, A. Hall, Horst, Jeffries, Kimble, Kirby, Longanacre, Martin, McGeehan, C. Pritt, Ridenour, Steele, Summers, Tully and Vance.

Absent and Not Voting: Hardy, Riley and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3095) passed.

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

H. B. 3146, Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act; on third reading, coming up in regular order, was read a third time.

Mr. Speaker, Delegate Hanshaw in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Foggin, Hardy, Longanacre and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3146) passed.

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

H. B. 3156, Raising the compensation rates of panel attorneys; on third reading, coming up in regular order, was read a third time.

Delegates Fast, Kirby and Steele requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and did not excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 86, nays 11, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Foster, Gearheart, A. Hall, Heckert, Hornby, Longanacre, Ridenour, Ross, Tully and Vance.

Absent and Not Voting: Hardy, E. Pritt and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3156) passed.

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

Com. Sub. for H. B. 3224, Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3224) passed.

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

Com. Sub. for H. B. 3270, To amend the deliberate intent statute to limit noneconomic damages to \$500,000; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 52, nays 45, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Adkins, Bridges, Brooks, Chiarelli, Clark, Dean, Dillon, Dittman, Ferrell, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hanna, Hansen, Heckert, Holstein, Hornbuckle, Horst, Kirby,

Kump, Linville, Longanacre, Mallow, Martin, Miller, Petitto, E. Pritt, Pushkin, Reynolds, Rowe, Sheedy, Skaff, Statler, Steele, Storch, Toney, Tully, Vance, Walker, Williams, Willis, Worrell and Young.

Absent and Not Voting: Hardy, Ridenour and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3270) passed.

Com. Sub. for H. B. 3315, Relating generally to readiness enhancement and commission bonuses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Hardy, Holstein, Kirby and Warner.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3315) passed.

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

H. B. 3331, Relating generally to support staff in the family courts and magistrate courts of this state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 346**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hardy, Kirby and Warner.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3331) passed.

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

H. B. 3342, Relating to cooperation between municipal and county economic development authorities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Warner.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3342) passed.

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

H. B. 3360, Creating an office of the Inspector General within the Department of Homeland Security; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3360) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

H. B. 3360 - “A Bill to amend and reenact §15A-1-9 of the Code of West Virginia, 1931, as amended, relating to the Department of Homeland Security; and authorizing the Secretary of the Department of Homeland Security to establish within the department an Office of the Inspector General; specifying the authority of the Office of the Inspector General; providing for the appointment of an Inspector General; specifying that the Inspector General will report directly to the Secretary; specifying duties of the Inspector General; providing the procedure for removal of the Inspector General; prohibiting interference with the Inspector General; specifying the Inspector General is classified-exempt; specifying qualifications of the Inspector General; and specifying the Inspector General may propose legislative and procedural rules for promulgation.”

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

Com. Sub. for H. B. 3369, Creating a School Safety Unit within the Division of Protective Services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3369) passed.

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

Com. Sub. for H. B. 3370, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers

land, state parks and resorts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 85, nays 11, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Foster, Gearheart, A. Hall, Longanacre, McGeehan, Miller, C. Pritt, Sheedy and Vance.

Absent and Not Voting: Fluharty, Forsht, Hardy and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3370) passed.

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

H. B. 3396, Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Fluharty, Hardy, Honaker, Pinson, Ross and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3396) passed.

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

On this question, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Fluharty, Hardy, Honaker and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3396) takes effect from its passage.

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

H. B. 3439, To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than \$1 million per incident; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Kirby.

Absent and Not Voting: Cooper, Fluharty, Hardy, Honaker and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3439) passed.

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

H. B. 3443, Relating to a development or improvement on land subject to review by the State Historic Preservation Office; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 89, nays 4, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Hansen, Pushkin, Sheedy and Walker.

Absent and Not Voting: Burkhammer, Cooper, Hardy, Honaker, Hornbuckle, Hott and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3443) passed.

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

H. B. 3464, Relating to the transfer of certain revenues derived from lottery activities; on third reading, coming up in regular order, was read a third time.

Delegate Foster asked if the bill could be laid over a day and Delegate Household moved to table the motion.

The Speaker replied that there was no motion pending, and Delegate Householder asked unanimous consent to withdraw his motion.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 355**), and there were—yeas 63, nays 31, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Bridges, Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dillon, Dittman, Fast, Foster, Gearheart, A. Hall, Hanna, Jeffries, Jennings, Keaton, Kirby, Kump, Linville, Longanacre, Martin, Pinson, C. Pritt, Ross, Street, Thorne, Toney, Vance, Ward, Warner and Worrell.

Absent and Not Voting: Anderson, Hardy, Hornbuckle, Kelly, Kimble and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3464) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

H. B. 3464 - “A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22C-27a of said code, all relating to changes in distribution of racetrack video lottery net terminal income and changes in distribution of lottery racetrack table games adjusted gross receipts; and to restore moneys previously removed from net terminal income and adjusted gross receipts in 2014.”

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

H. B. 3509, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Longanacre and Vance.

Absent and Not Voting: Devault, Hardy, Hornbuckle, Kelly and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3509) passed.

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

On this question, the yeas and nays were taken (**Roll No. 357**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Devault, Hardy, Hornbuckle, Kelly and Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3509) takes effect from its passage.

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

H. B. 3510, Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Hornbuckle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3510) passed.

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

On this question, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kimble.

Absent and Not Voting: Hardy, Hornbuckle and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3510) takes effect from its passage.

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

H. B. 3526, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 360**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: W. Hall, Hardy, Hornbuckle and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3526) passed.

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

On this question, the yeas and nays were taken (**Roll No. 361**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: W. Hall, Hardy and Hornbuckle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3526) takes effect from its passage.

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

H. B. 3527, Supplementing and amending appropriations to Department of Education, School Building Authority; on third reading, coming up in regular order, was read a third time.

Delegate Foster moved that the bill be divided.

The Speaker ruled that the motion was not in order.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 362**), and there were—yeas 77, nays 21, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Dillon, Foster, Gearheart, A. Hall, Jeffries, Kimble, Kirby, Longanacre, McGeehan, Pinson, C. Pritt, Ridenour, Ross, Street and Vance.

Absent and Not Voting: W. Hall and Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3527) passed.

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

On this question, the yeas and nays were taken (**Roll No. 363**), and there were—yeas 80, nays 17, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Coop-Gonzalez, Dean, Dillon, Foster, Gearheart, A. Hall, Kimble, Kirby, Longanacre, Martin, McGeehan, C. Pritt, Ridenour, Ross and Vance.

Absent and Not Voting: W. Hall, Hardy and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3527) takes effect from its passage.

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

H. B. 3529, Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 364**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: W. Hall, Hardy and Reynolds.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3529) passed.

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

On this question, the yeas and nays were taken (**Roll No. 365**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, W. Hall, Hardy and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3529) takes effect from its passage.

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

H. B. 3554, Relating to prohibiting a municipality or the governing body of any municipality from limiting rental of a property; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Howell, asked and obtained unanimous consent, to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of amendments on that reading.

On motion of Delegates Brooks and Howell the bill was amended on page 1, section 5h, line 1, immediately following the word “may” by striking the following: “by ordinance or otherwise” and inserting in lieu thereof the following: “other than by a uniform zoning ordinance”

And,

On page 2, section 5h, line 11, immediately following the word “awarded” by inserting the words “up to”.

Having been engrossed, the bill was read a third time.

Subsequently,

On motion of Delegate Howell the bill be postponed one day.

H. B. 3559, Relating to defining a newborn safety device; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 366**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Adkins, Kirby, Longanacre, McGeehan and E. Pritt.

Absent and Not Voting: W. Hall, Hardy, Hornby, Reynolds and Ridenour.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3559) passed.

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

H. B. 3560, Relating to expanding the definitions of land and recreational purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Steele, Toney and Vance.

Absent and Not Voting: W. Hall, Hardy, Hornby and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3560) passed.

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

Delegate Capito then asked and obtained unanimous consent to return to further consideration of Com. Sub. for H. B. 3270.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3270 - “A Bill to amend and reenact §23-4-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §23-4-2a, all relating to the deliberate intent exception to the immunities provided under Workers Compensation; clarifying certain definitions of employee; clarifying the proof required for certain claims; clarifying the recoverable amount payable for compensatory damages for noneconomic losses; and requiring a yearly increase in certain limitations for compensatory damages to account for inflation.”

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

At 3:27 p.m., on motion of Delegate Householder, the House of Delegates recessed until 5:30 p.m.

* * * * *

Evening Session

* * * * *

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

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that H. B. 2955, Com. Sub. for H. B. 3046 and Com. Sub. for H. B. 3092, on Third Reading, House Calendar, had been transferred to the Special Calendar; and Com. Sub. for H. B. 3018, H. B. 3408 and Com. Sub. for H. B. 3480, on Second Reading, House Calendar, had been transferred to the Special Calendar.

Delegate Crouse asked and obtained unanimous consent to be added as a cosponsor of H. B. 3408.

Delegate Cannon asked and obtained unanimous consent to be added as a cosponsor of Com. Sub. for H. B. 3480.

Special Calendar

-continued-

Third Reading

H. B. 2955, Relating to the establishment and operation of regional water, wastewater and stormwater authorities; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 3046, Fast Track for Agriculture Education Endorsement; on third reading, coming up in regular order, was read a third time.

Delegate Householder asked unanimous consent that the bill be postponed one day.

Whereupon,

There being no objection, the House proceeded with consideration of the bill.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 81, nays 7, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Clark, Hornby, Riley, Smith, Walker, Willis and Young.

Absent and Not Voting: Bridges, Cooper, Dillon, Hanna, Hardy, Heckert, Kirby, Kump, Lucas, Martin, Ross and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3046) passed.

Com. Sub. for H. B. 3092, Relating to in-state food service permit reciprocity; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

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

Committee Reports

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 12, To place Purple Heart Signs at the entrances to the state,

H. C. R. 33, Lt. Col. Mitchell M. Mickel Memorial Bridge,

H. C. R. 36, Charles A. White Memorial Bridge,

H. C. R. 51, U. S. Army SFC Samuel Evans Miller Memorial Bridge,

H. C. R. 54, U.S. Army PFC Russell Richard Ferguson Memorial Bridge,

H. C. R. 55, U. S. Army SP4 Lee Thomas Memorial Bridge,

H. C. R. 56, George M. Hall Memorial Bridge,

H. C. R. 58, U. S. Army SSG Steven “Todd” Shay Memorial Bridge,

Com. Sub. for S. C. R. 3, Dr. Roland P Sharp Memorial Road,
And,

Com. Sub. for S. C. R. 6, US Army SGT Vincent DiBacco Memorial Bridge,

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 12, H. C. R. 33, H. C. R. 36, H. C. R. 51, H. C. R. 54, H. C. R. 55, H. C. R. 56, H. C. R. 58, Com. Sub. for S. C. R. 3 and Com. Sub. for S. C. R. 6) were each referred to the Committee on Rules.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2908, Supplementing and amending appropriations to the Department of Commerce, Division of Forestry,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2908 – “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Commerce, Division of Forestry, fund 0250, fiscal year 2023, organization 0305, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

With the recommendation that the committee substitute do pass.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2904, Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary,

H. B. 3557, Making a supplementary appropriation to the Department of Veterans' Assistance,

And,

S. B. 510, Supplementing and amending appropriations to BOE, Department of Education,

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

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 526, Including Alzheimer's disease in existing public health programs,

Com. Sub. for S. B. 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription,

S. B. 605, Requiring state medical examiner to enter into contracts with procurement organization,

S. B. 679, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes,

And,

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability,

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

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 613, Relating generally to certificates of need,

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

Special Calendar

-continued-

Second Reading

Com. Sub. for H. B. 2862, Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments; on

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

H. B. 2878, To grant the Fleet Management Division oversight authority of the state vehicle fleet; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, on page 2, section 3, line 28, striking the words ", except for law enforcement vehicles"

And,

On page 3, section 6, line 3, by striking the words "law enforcement vehicles and "

And,

On page 3, section 9, line 4, by inserting "may request an exemption from part or all of the services provided by the Fleet Management Division. The division shall review each request and may recommend approval of the request by the secretary. The division shall submit a legislative rule identifying each spending unit for which an exemption has been approved, which rule shall further state the nature of the proposed exemption, and which services will be used, as well as the manner in which the spending unit will comply with all other requirements of this article, including the requirements to report certain information to the division after the word "agencies"

And,

On page 3, section 9, line 10, strike "are exempt from all of the services provided by the Fleet Management Division:" after the word "division"

Delegate Linville asked and obtained unanimous consent that an amendment offered by Delegates Smith, Linville and Howell be considered before the committee amendment.

On motion of Delegates Smith, Linville, and Howell the bill was amended on page 4, section 9, line 13, immediately following the word “code” by inserting the following “: *Provided however*, That undercover law enforcement vehicles are exempt from all provisions of this article.”

The Committee on Government Organization amendment was then adopted.

On motion of Delegate Foster, the bill was amended on page 3, section 5A-12-6, line 4, after the word “July 1,” by striking the number “2024” and inserting in lieu thereof the following:

“2025”.

The bill was then ordered to engrossment and third reading.

H. B. 2939, Relating to filing of lien by municipalities for collection of refuse fees; on second reading, coming up in regular order, was read a second time.

Delegates Foster and Linville moved to amend the bill on page 3, section 13, line 56, by adding a new subsection and inserting the following:

“(j) Notwithstanding any provision in this chapter to the contrary, a municipality shall not assess a user fee for any person who is not physically present in the boundary of the municipality in the performance of his or her job; *Provided*, That this subsection does not apply to refuse, fire, police, or street fees or the right to file a lien for refuse, fire, police, or street fees if service relating to these fees was provided within an area designated by the municipality to be covered by said services.”

Delegate Fast arose to a point of order as to the germaneness of the amendment.

The being no objection, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 2992, Clarifying and updating school bus rules and the types of vehicles covered; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3018, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court; on second reading, coming up in regular order, was read a second time.

An amendment offered by Delegate Chiarelli was reported by the Clerk.

Whereupon,

Delegate Chiarelli asked and obtained unanimous consent that the amendment be withdrawn.

Com. Sub. for H. B. 3049, To create the American Campuses Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3133, Create a credit against the severance tax to encourage private companies to make infrastructure improvements to highways, roads and bridges in this state; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Criss, the bill was amended on page six, section four, line ten, following the words “of this code”, by striking out the period and inserting a colon and the following: “Provided, That the gross amount of additional tax on coal collected under this article to §11-13A-6 of the code and the gross amount of tax on coal reallocated and dedicated under §11-13A-6a of the code shall be paid over and distributed as provided in those sections without the application of any credits against the tax allowed by this section.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3135, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Summers, the bill was amended on page 2, line 18, by striking subdivision (c) in its entirety and inserting in lieu thereof another subdivision (c) to read as follows:

“(c) Notwithstanding the provisions of subsections (a) and (b) of this section, beginning in the calendar year 2025, and for each calendar year thereafter, salaries for each of the state Constitutional officers shall be as follows:

(1) The salary of the Governor shall be \$180,000 per year;

(2) The salary of the Attorney General shall be \$115,000 per year;

(3) The salary of the Auditor shall be \$115,000 per year;

(4) The salary of the Secretary of State shall be \$115,000 per year;

(5) The salary of the Commissioner of Agriculture shall be \$115,000 per year; and

(6) The salary of the state Treasurer shall be \$115,000 per year.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; on second reading, coming up in regular order, was read a second time.

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

H. B. 3203, Relating generally to West Virginia Real Estate License Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3303, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3313, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3330, Creating family court circuits and assigning the number of family court judges in each family court circuit to be elected in the 2024 election; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3332, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election; on second reading, coming up in regular order, was read a second time.

An amendment sponsored by Delegate Capito, was reported by the Clerk on page 1, by striking everything after the enacting clause and inserting the following:

“ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES

§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections; terms of court.

(a) 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 two judges: *Provided*, That effective January 1, 2017, said circuit court shall have three judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(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 10th circuit and shall have three judges: *Provided*, That effective January 1, 2017, said circuit court shall have four judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(11) The counties of Greenbrier and Pocahontas shall constitute the 11th circuit and shall have two judges;

(12) The county of Fayette shall constitute the 12th circuit and shall have two judges;

(13) The county of Kanawha shall constitute the 13th circuit and shall have seven judges;

(14) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 14th circuit and shall have two judges;

(15) The county of Harrison shall constitute the 15th circuit and shall have three judges;

(16) The county of Marion shall constitute the 16th circuit and shall have two judges;

(17) The county of Monongalia shall constitute the 17th circuit and shall have three judges;

(18) The county of Preston shall constitute the 18th circuit and shall have one judge;

(19) The counties of Barbour and Taylor shall constitute the 19th circuit and shall have one judge: *Provided*, That effective January 1, 2019, said circuit court shall have two judges; said additional circuit judge to be appointed by the Governor and subsequently elected at the next scheduled primary election to be held in 2020 for the unexpired term pursuant to §3-10-3 of this code: *Provided, however*, That said additional circuit judge shall thereafter be elected at the regularly scheduled election(s) to be held in the year 2024 and every eighth year thereafter;

(20) The county of Randolph shall constitute the 20th circuit and shall have one judge;

(21) The counties of Grant, Mineral, and Tucker shall constitute the 21st circuit and shall have two judges;

(22) The counties of Hampshire, Hardy, and Pendleton shall constitute the 22nd circuit and shall have two judges;

(23) The counties of Berkeley, Jefferson, and Morgan shall constitute the 23rd circuit and shall have five judges: *Provided*, That effective January 1, 2017, said circuit court shall have six judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(24) The county of Wayne shall constitute the 24th circuit and shall have two judges;

(25) The counties of Lincoln and Boone shall constitute the 25th circuit and shall have two judges;

(26) The counties of Lewis and Upshur shall constitute the 26th circuit and shall have one judge: *Provided*, That effective January 1, 2017, said circuit court shall have two judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(27) The county of Wyoming shall constitute the 27th circuit and shall have one judge;

(28) The county of Nicholas shall constitute the 28th circuit and shall have one judge;

(29) The county of Putnam shall constitute the 29th circuit and shall have two judges;

(30) The county of Mingo shall constitute the 30th circuit and shall have one judge; and

(31) The counties of Monroe and Summers shall constitute the 31st circuit and shall have one judge.

~~(b) The Kanawha County circuit court shall be a court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of sickness, vacation, or other reason~~ Effective January 1, 2025, the state shall be divided into the following circuit court judicial circuits with the following number of circuit 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: *Provided*, That Tyler and Wetzel shall constitute a division in which the judge and

candidates for election shall reside and Marshall shall constitute a division in which the judge and candidates for election shall reside.

(3) The counties of Doddridge, Pleasants, Ritchie, and Wirt shall constitute the third circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(4) The county of Wood 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 Putnam shall constitute the seventh circuit and shall have two judges;

(8) The county of Kanawha shall constitute the eighth circuit and shall have eight judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter. The Kanawha County circuit court shall be a court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of sickness, vacation, or other reason.

(9) The counties of Boone and Lincoln shall constitute the ninth circuit and shall have two judges.

(10) The county of Wayne shall constitute the 10th circuit and shall have two judges;

(11) The counties of Logan and Mingo shall constitute the 11th circuit and shall have three judges;

(12) The counties of McDowell and Wyoming shall constitute the 12th circuit and shall have two judges; *Provided, That* McDowell shall constitute a division in which the judge and

candidates for election shall reside and Wyoming shall constitute a division in which the judge and candidates for election shall reside.

(13) The county of Mercer shall constitute the thirteenth circuit and shall have three judges;

(14) The county of Raleigh shall constitute the 14th circuit and shall have four judges;

(15) The county of Fayette shall constitute the 15th circuit and shall have two judges;

(16) The county of Nicholas shall constitute the 16th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(17) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 17th circuit and shall have two judges;

(18) The counties of Lewis and Upshur shall constitute the 18th circuit and shall have two judges: *Provided*, that Lewis shall constitute a division in which the judge and candidates for election shall reside and Upshur shall constitute a division in which the judge and candidates for election shall reside.

(19) The county of Harrison shall constitute the 19th circuit and shall have three judges;

(20) The county of Marion shall constitute the 20th circuit and shall have two judges;

(21) The county of Monongalia shall constitute the 21st circuit and shall have three judges;

(22) The counties of Preston and Tucker shall constitute the 22nd circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter.

(23) The counties of Barbour and Taylor shall constitute the 23rd circuit and shall have two judges.

(24) The county of Randolph shall constitute the 24th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(25) The counties of Grant and Mineral shall constitute the 25th circuit and shall have two judges.

(26) The counties of Hampshire, Hardy, and Pendleton shall constitute the 26th circuit and shall have two judges;

(27) The counties of Berkeley, Morgan, Jefferson shall constitute the 27th circuit and shall have six judges;

(28) The counties of Greenbrier, Monroe, Pocahontas and Summers shall constitute the 28th circuit and shall have three judges;

(c) 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, 2016~~ December 31, 2024.

(d) 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 2016 shall commence on January 1, 2017, and end on December 31, 2024. The term of office for all circuit judges elected during an election conducted in 2024 shall commence on January 1, 2025 and shall end on December 31, 2032.

(e) 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 ~~nomination or~~ 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 ~~nominated or elected. as the case may be.~~

~~(f) Judges serving a judicial circuit comprised of four or more counties with two or more judges shall not be residents of the same county.~~ In a judicial circuit comprised of four or more counties with three or more judges, no more than two circuit judges may be residents of the same county.

(g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit judges.”

On motion of Delegate Capito, the amendment was amended on page 4, section 1, line 81, by inserting after the word “thereafter” the words “Until January 1, 2025,”

On motion of Delegate Capito, the amendment was amended on page 3, section 1, lines 75-76, and page 5, section 1, lines 122-123 by adding:

Provided, if more than two candidates from the same county receive the highest number of the votes in more than two divisions, the two candidates from the same county with the highest number of the votes cast within the circuit shall be elected to serve and the remaining candidates from the same county shall be declared ineligible to serve. *Provided, however*, in the event a candidate is determined to be ineligible to serve as a result of his or her residency, the candidate residing in a different county within the circuit, receiving the next highest number of the votes cast in the division, shall be deemed elected.

And,

On page 5, section 1, lines 129-131:

~~(f) Judges serving a judicial circuit comprised of four or more counties with two or more judges shall not be residents of the same county.~~ In a judicial circuit comprised of four or more counties with three or more judges, no more than two circuit judges may be residents of the same county.

Another amendment offered by Delegate Capito was reported by the Clerk.

Whereupon,

Delegate Capito asked and obtained unanimous consent that the amendment be withdrawn.

Another amendment offered by Delegate Capito was reported by the Clerk.

Whereupon,

Delegate Capito asked and obtained unanimous consent that the amendment be withdrawn.

The strike and insert amendment, as amended, was adopted.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3344, To pay certain moral obligations of the state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3354, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services; on second reading, coming up in regular order, was read a second time.

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

H. B. 3371, Relating to federal funds for land-grant institutions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3405, Change the maximum time period of a protective order to one year; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3408, To clean up statutory provisions regarding the Hope Scholarship program to better reflect the intent and operation of the program; on second reading, coming up in regular order, was read a second time.

An amendment offered by Delegates Crouse and Ellington was reported by the Clerk on page 2, after the enacting clause, by striking out the remainder of the bill and inserting, in lieu thereof, the following:

“ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Compulsory school attendance; exemptions.

(a) Exemption from the requirements of compulsory public school attendance established in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section is subject to confirmation by the attendance authority of the county. A child who is exempt from compulsory school attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a status offender as defined by §49-1-202 of this code. A child who is exempt from compulsory school attendance under this section is not subject to the requirements of §18-31-1, *et seq.* of this code unless that child is an eligible recipient as defined by §18-31-2a of this code.

(b) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to instruction in a private, parochial, or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all private, parochial, or other schools approved pursuant to this subsection, it is the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction, and progress of students enrolled.

(c) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of either subdivision (1); or subdivision (2) of this subsection, both relating to home instruction, are met:

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give instruction in subjects required to be taught in public elementary schools in the state. The person or persons providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required periodically with respect to attendance, instruction, and progress of students receiving the instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: *Provided*, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(A) Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent

upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(C) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(D) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

~~(E) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June 30 of the year in which the assessment was administered.~~

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection.

(A) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the

person or persons providing home instruction. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(B) A child receiving home instruction pursuant to this section may also be referred to throughout this code as a “home school student” or similar reference.

(d) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if conditions rendering school attendance impossible or hazardous to the life, health, or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A work permit may

not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to alternative private, parochial, church, or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church

school, school operated by a religious order, or other nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in §18-8-1a of this code from the compulsory attendance provision of this article.

~~(m) A child is exempt from the compulsory school attendance requirements set forth in §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to participate in the Hope Scholarship Program to the county superintendent. The county superintendent shall enter the following into the West Virginia Education Information System (WVEIS):~~

~~(1) The filing of the notice of intent pursuant to this subsection;~~

~~(2) In the case of a Hope Scholarship recipient who chooses an individualized instructional program, annually, the child's test results or determination that a student is making academic progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4) of this code; and~~

~~(3) In the case of an eligible recipient enrolling in a participating school, annually, the filing of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.~~

(m) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in an Assembled Instructional Module pursuant to this subsection: *Provided*, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(1) For the purposes of this subsection an Assembled Instructional Module means a program of study organized and

facilitated by either the child's parent or legal guardian or educational service provider or providers chosen by the child's parent or legal guardian. Participation may take place in the child's home or in a location chosen by the parent or legal guardian.

(2) Upon beginning participation in an Assembled Instructional Module pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent or county board a notice of intent to participate in an Assembled Instructional Module that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in an Assembled Instructional Module for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to participate in an Assembled Instructional Module shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in an Assembled Instructional Module takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of

administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in an Assembled

Instructional Module. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(6) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child no later than June 8th every year.

(7) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a Assembled Instructional Module may, upon approval of the county board, exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

(8) Notwithstanding any provision of this code to the contrary, Assembled Instructional Module students shall have all of the educational rights and privileges this code makes available to home school students who receive instruction pursuant to subsection (c) of this section and may participate in any state or county program available to home school students: *Provided*, That nothing in this section may be construed as making Assembled Instructional Module students the same as homeschool students or as subjecting home school students to the requirements of this section.

(n) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in a learning pod or microschool pursuant to this subsection.

(1) For the purposes of this subsection:

(A) “Learning pod” means a voluntary association of parents choosing to group their children together to participate in their elementary or secondary academic studies as an alternative to

enrolling in a public school, private school, homeschool, or microschool, including participation in an activity or service provided to the children in exchange for payment; and

(B) “Microschool” means a school initiated by one or more teachers or an entity created to operate a school that charges tuition for the students who enroll and is an alternative to enrolling in a public school, private school, homeschool, or learning pod.

(2) Upon beginning participation in a learning pod or microschool pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent or county board a notice of intent to participate in a learning pod or microschool that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in a learning pod or microschool for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to participate in a learning pod or microschool shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in a learning pod or microschool takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual

assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in a learning pod or microschool. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

~~(6) The parent, legal guardian, learning pod, or microschool shall submit to the county superintendent the results of the academic assessment of the child with the same frequency prescribed in §18-8-1(c)(2)(E) of this code: *Provided*, That instead of the academic assessment results being submitted individually, the learning pod or microschool may submit the school composite results.~~

(7) ~~(6)~~ The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a learning pod or microschool may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

~~(8)~~ (7) No learning pod or microschool which meets the requirements of this subsection is subject to any other provision of law relating to education: *Provided*, That any learning pod or microschool which has a student requiring special education instruction must comply with the provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for the protection of that exceptional student.

~~(9) Making learning pods and microschools subject to the home instruction provisions and requirements does not make learning~~

~~Pods and microschools the same as homeschooling. (8)~~
Notwithstanding any provision of this code to the contrary, learning pod and microschool students shall have all of the educational rights and privileges this code makes available to home school students who receive instruction pursuant to subsection (c) of this section and may participate in any state or county program available to home school students: *Provided*, That nothing in this section may be construed as making learning pod or microschool students the same as homeschool students or as subjecting home school students to the requirements of this section.

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 ~~eligible Hope Scholarship applications received by the Hope Scholarship Board, if available~~ 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 to ~~the Department of Education that was not transferred to the Hope Scholarship Board due to an accumulated balance from prior years as provided under subsection (b) of this section 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 ~~the sum of:~~

~~(1) Any~~ any unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from previous years; ~~and~~

~~(2) Any unused appropriations made to the Department of Education for these purposes that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior 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 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 content area or grade level, including 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 is eligible to participate in the Hope Scholarship Program according to §18-31-2a of this code.

(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) ‘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;

(9) ‘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;

‘Public school’ means a kindergarten, elementary, or secondary county school, a public charter school, a virtual public

charter school, or any other publicly supported elementary or secondary school in this state.

~~(10)~~ ‘Resident school district’ means the county school district in which the student resides; and

~~(11)~~ ‘Treasurer’ means the West Virginia State Treasurer.

§18-31-2a. Eligibility for the Hope Scholarship Program.

(a) To participate in the Hope Scholarship Program, a student must:

(1) Be a resident of the State of West Virginia;

(2) Have filed a notice of intent or notice of enrollment pursuant to §18-8-1(b), (k), (m), or (n) of this code to pursue a kindergarten, elementary, or secondary educational option authorized by that section in lieu of compulsory public school attendance for the applicable year;

(3) Have indicated in the notice of intent or notice of enrollment that the student will participate in the Hope Scholarship Program;

(4) Meet all requirements of this code and the Department of Education related to the exemption in §18-8-1(b), (k), (m), or (n) of this code that applies to the student; and

(5) Meet one of the following criteria:

(A) Is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code;

(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 pursuant to §18-31-5(c) of this code;

(C) Is enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or

(D) Is eligible to renew his or her Hope Scholarship according to §18-31-8 of this code.

(b) Notwithstanding subsection (a) of this section, 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, a student is eligible to participate in the Hope Scholarship Program beginning on July 1, 2026, if he or she meets the following eligibility criteria:

(1) The student is a resident of West Virginia; and

(2) On or after July 1, 2026, the student is enrolled, eligible to be enrolled, or required to be enrolled in a public school program in this state at the time of application.

(c) Notwithstanding subsection (a) of this section, a child is not eligible to participate or continue to participate in the Hope Scholarship Program if:

(1) The student has successfully completed a secondary education program;

(2) The student is no longer a resident of the State of West Virginia; or

(3) The student is enrolled full-time in a public school.

(d) For each student participating in the Hope Scholarship Program, the county superintendent shall enter the information provided in the student's notice of intent or notice of enrollment into West Virginia Education Information System (WVEIS). The WVEIS entry must clearly indicate that the student will participate in the Hope Scholarship Program, along with any information

required by the Hope Scholarship Board to determine program eligibility.

§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 members shall reside in geographically diverse areas of the state;

(C) Members shall be initially appointed to staggered terms as follows:

(i) One member appointed by the Governor to a one-year term;

(ii) One member appointed by the Governor to a two-year term; and

(iii) One member each appointed by the Governor to a three-year term.

After the initial staggering of terms, appointed 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 Chapter 6B 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, including the authority to propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code, including emergency rules, if necessary;

(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; and

(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.

§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 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 make such applications available no later than March 1, 2022 and shall begin accepting applications immediately thereafter. 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 for in ~~§18-31-2(5)~~ §18-31-2a 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 as provided for in §18-31-7 of this code;

(C) To comply with the rules and requirements of the Hope Scholarship program; and

(D) To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

(4) The board confirms with the West Virginia Department of Education that the student satisfies ~~§18-31-2(5)(B)~~ §18-31-2a of this code: *Provided*, That if the department does not reply within 30 days, this criteria is considered satisfied.

(e) ~~An application for a Hope Scholarship is~~ 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 total number of eligible Hope Scholarship applications received by the board, 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)~~ (12) 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

(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 pursuant to an exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code:

(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;

(2) Tuition and fees at a participating school;

(3) Tuition and fees at a microschool established pursuant to §18-8-1(n) of this code;

~~(3)~~ (4) 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)~~ (5) 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)~~ (6) 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)~~ (7) Tuition and fees for nonpublic online learning programs;

~~(7)~~ (8) Tuition and fees for alternative education programs;

~~(8)~~ (9) Fees for after-school or summer education programs;

~~(9)~~ (10) Educational services and therapies, including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

~~(10)~~ (11) Curriculum as defined in §18-31-2 of this code;

~~(11)~~ (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

~~(12)~~ (13) Any other qualified expenses as approved by the board established pursuant to §18-31-3 of this code.

(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. Hope Scholarship funds may only be used for qualifying expenses incurred to provide the student with a kindergarten, elementary, or secondary education pursuant to an exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code.

(c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or student in any manner. Any refund or rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

(d) 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. Renewal of Hope Scholarship accounts; participation in public school system.

(a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis. Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously qualified for a Hope Scholarship account remains eligible to apply for renewal 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; and

~~(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;~~

~~(ii) The mean of the child's test results in the subject areas of reading, language, mathematics, science and social studies 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 child's 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~~

(3) That the student has met all requirements for the student's exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code.

(b) If a student is required to submit documentation of academic progress or nonpublic school attendance to the county superintendent or the Board of Education pursuant to the student's exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code, the student must submit the information at least annually to participate in the Hope Scholarship Program: *Provided*, That nothing in this Act may be construed to impose additional requirements on students who are exempt from compulsory school attendance and who do not participate in the Hope Scholarship Program.

~~(b)~~ (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 Department of Education each year on or before June 15.

(e) (d) If a parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent chooses not to renew 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.

(d) (e) If an eligible recipient decides to return to the Hope Scholarship Program after failing to renew, they must reapply.

(e) (f) 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.

(f) (g) 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~~ Assembled Instructional Module as defined by §18-8-1(m)(1) of this code. 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 shall charge tuition to Hope Scholarship students who enroll for services in a public school within the county. 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.

§18-31-9. Administration of Hope Scholarship accounts.

(a) In addition to the duties, obligations, and authority stated in this section and in other parts of this article, the board has the following duties, obligations, and authority with respect to the administration of Hope Scholarship accounts:

(1) To maintain an updated list of participating schools and other education service providers and ~~shall~~ ensure that the list is publicly available through various sources, including the internet;

(2) To provide parents with a written explanation of the allowable uses of Hope Scholarship funds, the responsibilities of parents, the duties of the board and the role of any private financial management firms or other private organizations that the board may contract with to administer the Hope Scholarship Program or any aspect of the program; and

(3) To ensure that parents of students with a disability receive notice that participation in the Hope Scholarship Program is a parental placement under 20 U.S.C. § 1412 of the Individuals with Disabilities Education Act (IDEA) along with an explanation of the rights that parentally placed students possess under (IDEA) and any applicable state laws and regulations.

(b) The board may contract with private organizations to administer the Hope Scholarship Program. This includes, but is not limited to, private financial management firms to manage Hope Scholarship accounts.

(c) The board may contract with independent auditors to complete the audits authorized in §18-31-9 of this code.

~~(e)~~ (d) The board shall implement, or contract with a private organization to implement, a commercially viable, cost effective, and parent-friendly system for payment for services from Hope Scholarship accounts to participating schools or education service providers, including, but not limited to, the use of debit cards or other electronic or online fund transfers: *Provided*, That a Hope Scholarship account may not be reduced for debit card or electronic payment fees.

(d) (e) The board shall also seek to implement a commercially viable, cost-effective, and parent-friendly system for publicly rating, reviewing, and sharing information about participating schools and education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers so as to create a one-stop-shop for parents and Hope Scholarship students.

(e) (f) If an education service provider requires partial payment of tuition or fees prior to the start of the academic year to reserve space for a Hope Scholarship student admitted to the education service provider, such partial payment may be paid prior to the start of the school year in which the Hope Scholarship is awarded, and deducted in an equitable manner from subsequent Hope Scholarship deposits to ensure adequate funds remain available throughout the school year; but if a Hope Scholarship student decides not to use the education service provider, the partial reservation payment must be returned to the board by such education service provider and credited to the student's Hope Scholarship account.

(f) (g) The board may accept gifts and grants from any source to cover administrative costs, to inform the public about the Hope Scholarship Program, or to provide additional funding for Hope Scholarship Accounts.

(g) (h) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* and §18-31-4(4) of this code, ~~including emergency rules, if necessary, to meet timelines set forth in this article, that are not inconsistent with this article and that are necessary~~ for the administration of this article, including but not limited to:

(1) Establishing or contracting for the establishment of a fraud reporting system;

(2) Policies that require a surety bond for education service providers receiving more than \$100,000 in Hope Scholarship funds;

(3) Procedures for refunding payments from education service providers back to Hope Scholarship accounts; and

(4) Procedures for entering into reciprocal agreements with other state education savings account agencies or entities, whether public or private, to recognize and allow education service providers approved in other states to receive payments from Hope Scholarship accounts under this article.

~~(H)~~ (i) The rules or policies adopted by the board should avoid excessive bureaucracy and overly prescriptive mandates and instead shall focus on encouraging participation in the program and encouraging education service providers to provide parents and Hope Scholarship students with a broad array of educational options.

§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

(a) The board may propose legislative rules for legislative 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 conduct or contract for the audit of education service providers accepting payments from Hope~~

~~Scholarship accounts. if it determines that the education service provider has:~~

~~(1) Intentionally and substantially misrepresented information or failed to refund any overpayments in a timely manner; or~~

~~(2) Routinely failed to provide students with promised educational goods or services.~~

(c) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* and §18-31-4(4) 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) ~~Agree to submit~~ Submit any employee or other person who will have contact with Hope Scholarship students receiving benefits from the provider to a criminal background check and certify the results of said background check to the Board: *Provided*, That the Board may propose rules pursuant §29A-3-1 *et seq.* and §18-31-4(4) of this code to suspend or disqualify a person from serving as an education service provider, based on charges, indictment, or conviction of sexual offenses or felonies involving violence against another person; and

(6) In the case of a participating school, provide notice of 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 or fees above 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.”

Whereupon,

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

H. B. 3451, Updating the veteran preference ratings in state code for state employment; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3480, Enact the West Virginia Consumer Financial Privacy Act of 2023; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for H. B. 3482, To create the Coal Fired Grid Stabilization and Security Act of 2023; on second reading, coming up in regular order, was read a second time.

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

H. B. 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office; on second reading, coming up in regular order,

was read a second time and ordered to engrossment and third reading.

H. B. 3561, Relating generally to creating the Joint Legislative Committee on Civic Life; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3562, Relating to the West Virginia Fusion Center; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Phillips, the bill was amended on page 11, section 3, line 98, after the word “Fusion” by inserting the word “Center”.

And,

On page 14, section 5, line 42, after the word “confined” by striking the words “in shall be imprisoned”.

The bill was then ordered to engrossment and third reading.

First Reading

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

S. B. 136, Requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have treatment plan to be eligible for probation,

Com. Sub. for S. B. 208, Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders,

Com. Sub. for S. B. 270, Adding exemption to permit requirement for cremation,

S. B. 276, Awarding service weapon of retiring State Fire Marshal,

Com. Sub. for S. B. 300, Relating to law-enforcement training and certification,

S. B. 481, Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program,

S. B. 553, Allowing for evaluation of prequalified bidders to be based on best value,

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program,

H. B. 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

H. B. 3513, Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority,

H. B. 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund,

H. B. 3515, Making a supplementary appropriation to the Department of Veterans’ Assistance, Veterans’ Facilities Support Fund,

H. B. 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment,

H. B. 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development,

H. B. 3518, Making a supplementary appropriation to the Department of Agriculture.

And,

H. B. 3524, Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund.

Delegate Householder asked and obtained unanimous consent to return to further consideration of Com. Sub. for H. B. 3046.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3046 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-44, relating to the creation of the Fast Track for Agriculture Education Endorsement Program.”

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

Miscellaneous Business

In the absence of objection, Com. Sub. for S. B. 534 was reassigned to the Committee on the Judiciary.

At 9:03 p.m., the House of Delegates adjourned until 9:30 a.m., Wednesday, March 1, 2023.

Wednesday, March 1, 2023

FIFTIETH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, February 28, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Messages from the Executive
and Other Communications**

The Clerk announced that H. B. 3272 was presented to the Governor on March 1, 2023.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3042, Relating to forbidding excessive government limitations on exercise of religion.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3308, Authorizing PSC consider and issue financing orders to certain utilities to permit the recovery of certain costs through securitization via consumer rate relief bonds.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 422 - “A Bill to amend and reenact §18-5-27 of the Code of West Virginia, 1931, as amended, relating to a school’s requirement to publish curriculum online at the beginning of each new school year, or within 30 days after curriculum is revised or new curriculum is adopted; and requiring schools to publish adopted, up-to-date, county-adopted classroom curriculum”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 440 - “A Bill to amend and reenact §17-3-2 of the Code of West Virginia, 1931, as amended, relating to payments from the State Road Fund; authorizing transfer of spending authority between appropriations; and requiring reporting by the Division of Highways”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 476 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-31, relating to managed care contracts; providing that the Bureau for Medical Services is exempt from the requirements of the Purchasing Division with respect to managed care contracts; and providing for exceptions”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 541 - “A Bill to amend and reenact §3-5-7, §3-5-11, and §3-5-19 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 generally to elections; clarifying the contents of the certificate of announcement of candidacy; specifying what information must be sworn or affirmed by candidates for office; clarifying the timing of challenges to candidate qualifications; amending the authority of political parties to fill ballot vacancies caused by voluntary withdrawals after the primary election; and prohibiting persons who have been convicted of certain crimes against minors from being eligible to hold positions on boards of education”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 547 - “A Bill to amend and reenact §60A-4-401, §60A-4-409, §60A-4-414, and §60A-4-416 of the Code of West Virginia, 1931, as amended, all relating to controlled substances violations; increasing sentences for certain controlled substances offenses; making certain offenses ineligible for suspension of sentence or probation, or alternative sentencing; making possession of Schedule I and II narcotics and methamphetamine a felony; expressing legislative intent; authorizing reduction from felony to misdemeanor under certain circumstances; declaring that minimum period of 10 years' incarceration for the offense of drug delivery causing death; requiring inert substances mixed with controlled substances to be considered a controlled substance for purposes of weight measurement; setting forth method for measurement where more than one controlled substance is in a mixture; and modifying

sentences for certain offenses”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 572 - “A Bill to amend and reenact §8-12-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §55-7-32, all relating to reforming the cause of action for public nuisance; providing definitions; outlining appropriate remedies; clarifying when municipal entities and individuals have standing to pursue a public nuisance action; and noting that any changes to current law of public nuisance have only prospective effect”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 573 - “A Bill to amend and reenact §48-1-205 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-13-301, §48-13-303, §48-13-403, §48-13-404, §48-13-501, and §48-13-502 of said code, all relating generally to the child support guidelines and the Support Enforcement Commission; clarifying circumstances and factors for attributed income; updating monthly basic child support obligations to reflect 2022 financial data; updating income amount requiring manual calculation to determine basic child support obligation; updating amount for the ability to pay calculation and self-support reserve; and amending the multiplier for extended shared parenting adjustment”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 650 - “A Bill to amend and reenact §30-3-14 and §30-3-15 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31B-13-1301 of said code, all relating to physician assistants owning a practice; establishing grounds for discipline or denial of a license or other authorization for physician assistants; clarifying physician assistant shareholder eligibility for medical corporations; permitting physician assistants to serve as designated corporate representatives; and designating the profession of physician assistant as a professional service for the purposes of the Uniform Limited Liability Company Act”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 660 - “A Bill to amend and reenact §17C-5-3 of the Code of West Virginia, 1931, as amended, relating to reckless driving; establishing the aggravated felony offense of reckless driving resulting in the death of another; and providing the criminal penalties for the offense”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 666 - “A Bill to amend and reenact §61-2-12 of the Code of West Virginia, 1931, as amended, relating to the crime of robbery; establishing the maximum term of years that may be imposed as a penalty upon conviction of robbery in the first

degree; and eliminating the separate crime of bank robbery”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 681 - “A Bill to amend and reenact §49-4-728, §49-4-729, and §49-4-734 of the Code of West Virginia, 1931, as amended, all relating to clarifying that the juvenile competency determination process extends to status offenders; and clarifying that there is no presumption of incompetence based on age for status offenders”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 732 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-23; to amend said code by adding thereto a new section designated §33-16-19; to amend said code by adding thereto a new section designated §33-24-7x; to amend said code by adding thereto a new section designated §33-25-8u; and to amend said code by adding thereto a new section designated §33-25A-8x, all relating to prohibiting an insurer from imposing a copayment, for services rendered by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist or a licensed physical therapist assistant, that is more than a copayment imposed for the services of a primary care physician or an osteopathic physician”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 734 – “A Bill to amend and reenact §5A-3-3c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §5A-6-4d and §5A-6-4e; and to amend and reenact §5A-6B-4 of said code, all relating to state data accessibility and infrastructure resiliency; requiring adoption of cloud computing services by state agencies; requiring development of a cloud strategy by Chief Information Officer; encouraging digitization of state agency forms; and requiring annual reporting on information technology modernization”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 10 - “Requesting the Division of Highways name a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, also known as Mulberry Ridge Road, in Roane County, West Virginia, the “U.S. Army Air Corps PVT Albert J. Sutphin Memorial Highway”.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 13 - “Requesting the Division of Highways name a portion of road, beginning at north and southbound 21-079/00-101.34 (39.05393, -80.40043) and ending at north and southbound County Overpass 14, carrying Interstate

79 over Rt. 14 in Lewis County, West Virginia, the “Wyant Brothers WWII Veterans Memorial Road”.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 16 - “Requesting the Division of Highways name bridge number 23-005/00-004.52 (23A383), (37.85814, -82.07508), locally known as North Shegon Bridge, carrying CR 05 over Mud Fork in Logan County, the ‘U.S. Army 1SG James Arnold Browning Memorial Bridge’”.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 17 - “Requesting the Division of Highways name bridge number 23-007/00-000.78 (23A370), (37.9747, -81.98155), locally known as New Garrett Fork Box Beam, carrying CR 07 over Garrett Fork in Logan County, the “U.S. Navy PO2 Phillip Joseph “P.J.” Hainer Memorial Bridge”.

Resolutions Introduced

Resolutions were introduced and severally referred as follows:

By Delegates Mazzocchi, Holstein, Adkins, Ridenour, Bridges, Butler, Honaker, Heckert, Smith, Longanacre and Cooper:

H. C. R. 62 – “Requesting the Division of Highways to name a bridge bearing Bridge Number: 23-007/00-003.44 (23A374), (37.96246, -81.93843) locally known as NEW GORE FORK BRIDGE, carrying CR 07 over GORE FORK CREEK in Logan County as the ‘U. S. Army PFC Clayton Collins Memorial Bridge’”; to the Committee on Rules

And,

By Delegates Sheedy, Butler, Hanna, Hillenbrand, Street, DeVault, Heckert, Chiarelli, Longanacre, Willis and Crouse:

H. C. R. 63 – “Proclaiming and making the AR-15 the official rifle of the State of West Virginia”; to the Committee on Veterans’ Affairs and Homeland Security then Rules.

Bills Introduced

On motions for leave, bills were introduced and severally referred as follows:

**By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:**

H. B. 3563 – “A Bill 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, 2023, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2023, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023; to the Committee on Finance.

**By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:**

H. B. 3564 – “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2023, to the Division of Human Services – Energy Assistance, fund 8755, fiscal year 2023, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023; to the Committee on Finance.

Motions

At the request of Delegate Ridenour, consent was obtained for the comments of the Delegate regarding H. C. R. 2 and H. C. R. 25 to be printed in the Appendix to the Journal.

Special Calendar

Third Reading

Com. Sub. for H. B. 2862, Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 369**), and there were—yeas 73, nays 23, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Anderson, Criss, Dittman, Espinosa, Fehrenbacher, Fluharty, Garcia, Hansen, Heckert, Hornbuckle, Marple, Miller, Pushkin, Riley, Rowe, Skaff, Statler, Storch, Walker, Westfall, Williams, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Hardy, Petitto and Ross.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2862) passed.

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

H. B. 2878, To grant the Fleet Management Division oversight authority of the state vehicle fleet; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 370**), and there were—yeas 90, nays 1, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Barnhart, Bridges, Criss, Hardy, Householder, McGeehan, Shamblin, Skaff and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2878) passed.

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

H. B. 2939, Relating to filing of lien by municipalities for collection of refuse fees; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Whereupon,

Delegate Linville asked and obtained unanimous consent that the amendment sponsored by Delegates Foster and Linville which was reported on yesterday be withdrawn.

Delegates Foster and Linville moved to amend the bill on page 3, section 13, line 56, by adding a new subsection and inserting the following:

“(j) Notwithstanding any provision in this chapter to the contrary, a municipality may not file a lien against any employer, or against any self-employed person for failure to pay any part of a user fee for any person who is not physically present in the boundary of the municipality in the performance of his or her job: *Provided*, That this subsection does not apply to refuse, fire, police, or street fees or the right to file a lien for refuse, fire, police, or street fees if service relating to these fees was provided within an area designated by the municipality to be covered by said services.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 371**), and there were—yeas 61, nays 33, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Anderson, Capito, Cooper, Ellington, Espinosa, Fluharty, Garcia, Griffith, W. Hall, Hansen, Heckert, Hornbuckle, Kelly, Marple, E. Pritt, Pushkin, Reynolds, Riley, Rohrbach,

Rowe, Shamblin, Skaff, Statler, Storch, Summers, Thorne, Toney, Walker, Williams, Worrell, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Hardy, Householder, McGeehan, Warner and Westfall.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 64, nays 34, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Nays: Anderson, Capito, Coop-Gonzalez, Criss, Dillon, Dittman, Fehrenbacher, Fluharty, Garcia, Griffith, A. Hall, Hansen, Heckert, Holstein, Hornbuckle, Hornby, Horst, Kelly, McGeehan, Nestor, Petitto, E. Pritt, Pushkin, Riley, Rowe, Skaff, Storch, Thorne, Walker, Warner, Williams, Worrell, Young and Zatezalo.

Absent and Not Voting: Bridges and Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2939) passed.

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

H. B. 2955, Relating to the establishment and operation of regional water, wastewater and stormwater authorities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 373**), and there were—yeas 90, nays 6, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Dillon, Foster, A. Hall, Horst, Street and Vance.

Absent and Not Voting: Bridges, Hardy, Linville and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2955) passed.

On motion of Delegate Phillips, the title of the bill was amended to read as follows:

H. B. 2955 - "A Bill to amend and reenact §16-13D-1, §16-13D-2, §16-13D-3, §16-13D-4, §16-13D-5, §16-13D-6, §16-13D-8, §16-13D-9, §16-13D-10, §16-13D-11, §16-13D-12, §16-13D-13, §16-13D-14, §16-13D-15, §16-13D-17, and §16-13D-21 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-13D-22, all relating to the establishment of water authorities; enabling public agencies to cooperate to manage stormwater; authorizing public agencies to create a regional stormwater authority; authorizing public agencies to create a regional authority providing any combination of services; providing that public agencies may manage stormwater and creating regional authorities to manage stormwater, regional water, and wastewater; specifying the required contents of the regional authority's organizational document; requiring the filing of the organizational document; providing that public agencies may enter into contracts; requiring the Public Service Commission to confirm that all required contract-related documentation has been filed; stating requirements for the governing body of a regional authority; granting powers to the governing body of a regional authority; stating procedures by which a regional authority may seek a rate increase from the Public Service Commission; authorizing the governing body of any regional authority to issue revenue bonds; providing for the creation of and payments into a sinking fund; regulating management of the sinking fund; creating a statutory mortgage lien upon the stormwater system of any regional authority; granting the governing body authority to make provisions for the payment of stormwater-system-related bonds; requiring the regional authority to maintain a certain working capital reserve; requiring the Public Service Commission to review

rate filings by regional authorities; granting authorities the right of eminent domain.”

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

Com. Sub. for H. B. 2992, Clarifying and updating school bus rules and the types of vehicles covered; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 374**), and there were—yeas 75, nays 20, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Brooks, Burkhammer, Butler, Cannon, Chiarelli, Coop-Gonzalez, Crouse, Dillon, Fast, Foster, Hite, Keaton, Kirby, Martin, McGeehan, Miller, Pinson, C. Pritt, Ridenour and Ross.

Absent and Not Voting: Bridges, Hardy, Skaff, Smith and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2992) passed.

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

Com. Sub. for H. B. 3018, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 375**), and there were—yeas 84, nays 13, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Brooks, Butler, Cooper, Dillon, Foggin, Kump, Marple, Martin, Mazzocchi, Phillips and Smith.

Absent and Not Voting: Bridges, Hardy and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3018) passed.

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

Com. Sub. for H. B. 3049, To create the American Campuses Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 376**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hardy, Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3049) passed.

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

Com. Sub. for H. B. 3092, Relating to in-state food service permit reciprocity; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 377**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Chiarelli, Hardy, Householder and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3092) passed.

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

Com. Sub. for H. B. 3133, Create a credit against the severance tax to encourage private companies to make infrastructure improvements to highways, roads and bridges in this state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 378**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Hansen, Hornbuckle, Pushkin, Rowe, Walker and Young.

Absent and Not Voting: Bridges, Chiarelli, Hardy and C. Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3133) passed.

On motion of Delegate Criss, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3133 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, §11-13MM-10 and §11-13MM-11, all relating to establishing a road or highway infrastructure improvement projects or coal production and processing facilities

tax credit for taxpayers subject to the tax imposed by West Virginia code §11-13A-3; specifying a short title; specifying legislative findings and purpose for new credit; defining terms; specifying the amount of the credit, application of credit, and carry forward of unused credit; excluding application of any credits against any portion of severance taxes dedicated to counties and municipalities; requiring filing of application for road or highway infrastructure improvement project credit as condition precedent to claiming credit, specifying procedure for application for certification, contents of application and limitation on maximum amount of credits which can be approved; specifying computation of qualified investment in coal production and processing facilities; allowing transfer of credits to successors; providing for forfeiture of unused tax credits and redetermination of credit allowed; providing penalties for failure to maintain records of qualified property; and establishing an effective date.”

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

Com. Sub. for H. B. 3135, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025; on third reading, coming up in regular order, was read a third time.

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

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected prospectively and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 73, nays 22, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Butler, Dean, Dillon, Fluharty, Foster, Gearheart, A. Hall, Hillenbrand, Holstein, Keaton, Kirby, Kump, Linville,

Longanacre, McGeehan, E. Pritt, Pushkin, Ross, Thorne, Vance, Worrell and Young.

Absent and Not Voting: Bridges, Chiarelli, Hanna, Hansen and Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3135) passed.

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

Com. Sub. for H. B. 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; on third reading, coming up in regular order with amendments pending and the right to amend, was reported by the Clerk.

In the absence of objection, a pending amendment sponsored by Delegates Jennings and Mallow; and a pending amendment and title amendment sponsored by Delegates Linville, Westfall, Ellington, Gearheart and Jeffries were withdrawn.

Delegates Linville, Westfall, Ellington, Gearheart and Jeffries moved to amend the bill on page 1, following the enacting clause, by striking the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 16. PUBLIC HEALTH

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT§16-4C-24. EMERGENCY MEDICAL SERVICES EQUIPMENT AND TRAINING FUND; ESTABLISHMENT OF GRANT PROGRAM FOR EQUIPMENT AND TRAINING OF EMERGENCY MEDICAL SERVICE PROVIDERS AND PERSONNEL.

(a) There is hereby created in the State Treasury a special revenue fund to be known as the Emergency Medical Services

Equipment and Training Fund. Expenditures from the fund by the Office of Emergency Medical Services, Bureau for Public Health, Department of Health and Human Resources are authorized from collections. The fund may only be used for the purpose of providing grants to equip emergency medical services providers and train emergency medical services personnel, as defined in §16-4C-3 of this code. Any balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue Fund but remains in the special revenue fund.

(b) The Commissioner of the Bureau for Public Health shall establish a grant program for equipment and training of emergency medical services providers and personnel. Such grant program shall be open to all emergency medical services personnel and providers, but priority shall be given to rural and volunteer emergency medical services providers.

(c) The Commissioner of the Bureau for Public Health shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant program established pursuant to this section.

(d) On July 1, 2023, and each July 1 thereafter, the State Lottery Commission shall transfer to the Emergency Medical Services Equipment and Training Fund \$6,173,475.11 from the balance of the funds remaining as an unappropriated balance in the State Excess Lottery Revenue Fund for the fiscal year just ended.

CHAPTER 33. INSURANCE. ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; Public Employees Insurance Agency and municipal pension plans; special fund created; Fire Protection Fund; allocation of proceeds; effective date.(a) (1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July

1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection.

(2) After June 30, 2005, through December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.

(3) After December 31, 2005, For the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.55% of the taxable premium for each such policy.

(4) For purposes of this section, casualty insurance ~~may~~ does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharges ~~may~~ are not ~~be~~ subject to premium taxes, agent commissions, or any other assessment against premiums.

(b) The policy surcharges imposed by this section shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention

group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharges shall be remitted on or before March 1 of the succeeding year.

(c) Any person failing or refusing to collect and remit to the commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the commissioner.

(d) *Fire Protection Fund allocation and distribution.* —

(1) All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the state Treasury, designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the months of January, April, July, and October to each volunteer fire company or department, on an equal share basis by the state Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse one half of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(B) The remaining portion of moneys collected shall be transferred into the fund in the state Treasury of the Public Employees Insurance Agency into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until

November 1, 2005. After the October 31, 2005, through December 31, 2005, the remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.

(3) After December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection. Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the State Treasurer: The names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code during the preceding quarter.

(e) The allocation, distribution, and use of revenues provided in the Fire Protection Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.

(f) On July 1, 2023, and each July 1 thereafter, the State Lottery Commission shall transfer to the Fire Protection Fund \$6,173,475.11 from the balance of the funds remaining as an unappropriated balance in the State Excess Lottery Revenue Fund for the fiscal year just ended.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 380**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Criss, Riley and Storch.

Absent and Not Voting: Bridges, Chiarelli and Hardy.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

Having been engrossed, the bill was read a third time.

Delegate Martin moved the previous question, which demand was sustained.

On this question, the yeas and nays were taken (**Roll No. 381**), and there were—yeas 53, nays 39, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Adkins, Barnhart, Butler, Cannon, Capito, Dean, Dittman, Espinosa, Fast, Fluharty, Hanna, Hansen, Hillenbrand, Holstein, Hornbuckle, Horst, Hott, Householder, Jennings, Keaton, Kelly, Kirby, Linville, Maynor, Mazzocchi, Pushkin, Riley, Rohrbach, Rowe, Skaff, Statler, Storch, Summers, Toney, Walker, Warner, Worrell, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Chiarelli, Forsht, Garcia, Hardy, Ridenour, Street and Williams.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 382**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Criss.

Absent and Not Voting: Bridges, Chiarelli, Forsht, Hardy and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3153) passed.

On motion of Delegates Linville, Westfall, Ellington, Gearheart and Jeffries, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3153 - “A Bill to amend and reenact §16-4C-24 of the Code of West Virginia, 1931, as amended; to amend

and reenact §33-3-33 of said code, all relating to requiring certain transfers and disbursements of certain surplus funds.”

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

H. B. 3203, Relating generally to West Virginia Real Estate License Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 383**), and there were—yeas 80, nays 5, absent and not voting 15, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Foggin, Foster and Vance.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Crouse, Dittman, Hardy, Horst, Householder, Kirby, Mazzocchi, Ross, Skaiff, Street, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3203) passed.

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

Com. Sub. for H. B. 3303, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 384**), and there were—yeas 86, nays 2, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Hansen and Young.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Hardy, Honaker, Horst, Householder, Marple, Rowe, Skaff, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3303) passed.

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

Com. Sub. for H. B. 3313, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 385**), and there were—yeas 82, nays 7, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Butler, Garcia, Hansen, E. Pritt, Rowe, Walker and Young.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Hardy, Horst, Householder, Marple, Ward, Westfall, Williams and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3313) passed.

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

H. B. 3330, Creating family court circuits and assigning the number of family court judges in each family court circuit to be elected in the 2024 election; on third reading, coming up in regular order, was read a third time.

Delegate C. Pritt asked and obtained unanimous consent to be added as a cosponsor of H. B. 3330, Com. Sub. for H. B. 3332, and H. B. 3562.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 386**), and there were—yeas 86, nays 2, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Howell and Miller.

Absent and Not Voting: Bridges, Hardy, Hite, Householder, Mallow, Marple, Pinson, Smith, Ward, Westfall, Williams and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3330) passed.

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

At 12:58 p.m., the House of Delegates recessed until 1:15 p.m.

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Afternoon Session

* * * * *

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

Special Calendar

Third Reading

-continued-

Com. Sub. for H. B. 3332, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected

in the 2024 election; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Vance asked and obtained unanimous consent to be added as a cosponsor of Com. Sub. for H. B. 3332.

At the request of Delegate Capito, and by unanimous consent, the bill was placed at the foot of all bills on third reading.

Com. Sub. for H. B. 3344, To pay certain moral obligations of the state; on third reading, coming up in regular order, was read a third time.

At the request of Delegate Criss, and by unanimous consent, the bill was placed at the foot of all bills.

Com. Sub. for H. B. 3354, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services; on third reading, coming up in regular order with the right to amend by Delegate Capito, was reported by the Clerk.

On motion of Delegate Capito, the bill was amended by striking everything after the enacting clause and inserting in lieu thereof the following:

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

§8-12-5. General powers of every municipality and the governing body thereof.

In addition to the powers and authority granted by: (i) The Constitution of this state; (ii) other provisions of this chapter; (iii) other general law; and (iv) any charter, and to the extent not inconsistent or in conflict with any of the foregoing except special legislative charters, every municipality and the governing body thereof shall have plenary power and authority therein by

ordinance or resolution, as the case may require, and by appropriate action based thereon:

(1) To lay off, establish, construct, open, alter, curb, recurb, pave or repave and keep in good repair, or vacate, discontinue and close, streets, avenues, roads, alleys, ways, sidewalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them which have not been authorized pursuant to the succeeding provisions of this subdivision; and, subject to such terms and conditions as the governing body shall prescribe, to permit, without in any way limiting the power and authority granted by the provisions of article sixteen of this chapter, any person to construct and maintain a passageway, building or other structure overhanging or crossing the airspace above a public street, avenue, road, alley, way, sidewalk or crosswalk, but before any permission for any person to construct and maintain a passageway, building or other structure overhanging or crossing any airspace is granted, a public hearing thereon shall be held by the governing body after publication of a notice of the date, time, place and purpose of the public hearing has been published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication shall be the municipality: *Provided*, That any permit so granted shall automatically cease and terminate in the event of abandonment and nonuse thereof for the purposes intended for a period of ninety days, and all rights therein or thereto shall revert to the municipality for its use and benefit;

(2) To provide for the opening and excavation of streets, avenues, roads, alleys, ways, sidewalks, crosswalks and public places belonging to the municipality and regulate the conditions under which any such opening may be made;

(3) To prevent by proper penalties the throwing, depositing or permitting to remain on any street, avenue, road, alley, way, sidewalk, square or other public place any glass, scrap iron, nails, tacks, wire, other litter or any offensive matter or anything likely to injure the feet of individuals or animals or the tires of vehicles;

(4) To regulate the use of streets, avenues, roads, alleys, ways, sidewalks, crosswalks and public places belonging to the municipality, including the naming or renaming thereof, and to consult with local postal authorities, the Division of Highways and the directors of county emergency communications centers to assure uniform, nonduplicative addressing on a permanent basis;

(5) To regulate the width of streets, avenues and roads, and, subject to the provisions of article eighteen of this chapter, to order the sidewalks, footways and crosswalks to be paved, repaved, curbed or recurbed and kept in good order, free and clean, by the owners or occupants thereof or of the real property next adjacent thereto;

(6) To establish, construct, alter, operate and maintain, or discontinue, bridges, tunnels and ferries and approaches thereto;

(7) To provide for the construction and maintenance of water drains, the drainage of swamps or marshlands and drainage systems;

(8) To provide for the construction, maintenance and covering over of watercourses;

(9) To control and administer the waterfront and waterways of the municipality and to acquire, establish, construct, operate and maintain and regulate flood control works, wharves and public landings, warehouses and all adjuncts and facilities for navigation and commerce and the utilization of the waterfront and waterways and adjacent property;

(10) To prohibit the accumulation and require the disposal of garbage, refuse, debris, wastes, ashes, trash and other similar accumulations whether on private or public property: *Provided*, That, in the event the municipality annexes an area which has been receiving solid waste collection services from a certificated solid waste motor carrier, the municipality and the solid waste motor carrier may negotiate an agreement for continuation of the private solid waste motor carrier services for a period of time, not to exceed three years, during which time the certificated solid waste motor

carrier may continue to provide exclusive solid waste collection services in the annexed territory;

(11) To construct, establish, acquire, equip, maintain and operate incinerator plants and equipment and all other facilities for the efficient removal and destruction of garbage, refuse, wastes, ashes, trash and other similar matters;

(12) To regulate or prohibit the purchase or sale of articles intended for human use or consumption which are unfit for use or consumption, or which may be contaminated or otherwise unsanitary;

(13) To prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome;

~~(14) To regulate the keeping of gunpowder and other combustibles;~~

~~(15)~~(14) To make regulations guarding against danger or damage by fire;

~~(16)~~(15) To arrest, convict and punish any individual for carrying about his or her person any revolver or other pistol, dirk, bowie knife, razor, slingshot, billy, metallic or other false knuckles or any other dangerous or other deadly weapon of like kind or character: *Provided*, That with respect to any firearm a municipality may only arrest, convict and punish someone if they are in violation of an ordinance authorized by subsection five a of this article, a state law proscribing certain conduct with a firearm or applicable federal law;

~~(17)~~(16) To arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publications;

~~(18)~~(17) To arrest, convict and punish any person for keeping a house of ill fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill fame, or for knowingly permitting any house owned by him or her or under his or her control to be kept or used as a house of ill

fame, or for loafing, boarding or loitering in a house of ill fame, or frequenting same;

~~(19)~~(18) To prevent and suppress conduct and practices which are immoral, disorderly, lewd, obscene and indecent;

~~(20)~~(19) To prevent the illegal sale of intoxicating liquors, drinks, mixtures and preparations;

~~(21)~~(20) To arrest, convict and punish any individual for driving or operating a motor vehicle while intoxicated or under the influence of liquor, drugs or narcotics;

~~(22)~~(21) To arrest, convict and punish any person for gambling or keeping any gaming tables, commonly called "A, B, C," or "E, O," table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting the table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value;

~~(23)~~(22) To provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance;

~~(24)~~(23) To license, or for good cause to refuse to license in a particular case, or in its discretion to prohibit in all cases, the operation of pool and billiard rooms and the maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for any such business and the provisions of section four, article thirteen of this chapter; and when the municipality, in the exercise of its discretion, refuses to grant a license to operate a pool or billiard room, mandamus may not lie to compel the municipality to grant the license unless it shall clearly appear that the refusal of the municipality to grant a license is discriminatory or arbitrary; and in the event that the municipality determines to license any business, the municipality has plenary power and authority and it shall be the duty of its governing body to make and

enforce reasonable ordinances regulating the licensing and operation of the businesses;

~~(25)~~(24) To protect places of divine worship and to preserve peace and order in and about the premises where held;

~~(26)~~(25) To regulate or prohibit the keeping of animals or fowls and to provide for the impounding, sale or destruction of animals or fowls kept contrary to law or found running at large;

~~(27)~~(26) To arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing, or overloading or overdriving or willfully depriving of necessary sustenance any domestic animal;

~~(28)~~(27) To provide for the regular building of houses or other structures, for the making of division fences by the owners of adjacent premises and for the drainage of lots by proper drains and ditches;

~~(29)~~(28) To provide for the protection and conservation of shade or ornamental trees, whether on public or private property, and for the removal of trees or limbs of trees in a dangerous condition;

~~(30)~~(29) To prohibit with or without zoning the location of occupied house trailers or mobile homes in certain residential areas;

~~(31)~~(30) To regulate the location and placing of signs, billboards, posters and similar advertising;

~~(32)~~(31) To erect, establish, construct, acquire, improve, maintain and operate a gas system, a waterworks system, an electric system or sewer system and sewage treatment and disposal system, or any combination of the foregoing (subject to all of the pertinent provisions of articles nineteen and twenty of this chapter and particularly to the limitations or qualifications on the right of eminent domain set forth in articles nineteen and twenty), within or without the corporate limits of the municipality, except that the municipality may not erect any system partly without the corporate

limits of the municipality to serve persons already obtaining service from an existing system of the character proposed and where the system is by the municipality erected, or has heretofore been so erected, partly within and partly without the corporate limits of the municipality, the municipality has the right to lay and collect charges for service rendered to those served within and those served without the corporate limits of the municipality and to prevent injury to the system or the pollution of the water thereof and its maintenance in a healthful condition for public use within the corporate limits of the municipality;

~~(33)~~(32) To acquire watersheds, water and riparian rights, plant sites, rights-of-way and any and all other property and appurtenances necessary, appropriate, useful, convenient or incidental to any system, waterworks or sewage treatment and disposal works, as aforesaid, subject to all of the pertinent provisions of articles nineteen and twenty of this chapter;

~~(34)~~(33) To establish, construct, acquire, maintain and operate and regulate markets and prescribe the time of holding the same;

~~(35)~~(34) To regulate and provide for the weighing of articles sold or for sale;

~~(36)~~(35) To establish, construct, acquire, maintain and operate public buildings, municipal buildings or city halls, auditoriums, arenas, jails, juvenile detention centers or homes, motor vehicle parking lots or any other public works;

~~(37)~~(36) To establish, construct, acquire, provide, equip, maintain and operate recreational parks, playgrounds and other recreational facilities for public use and in this connection also to proceed in accordance with the provisions of article two, chapter ten of this code;

~~(38)~~(37) To establish, construct, acquire, maintain and operate a public library or museum or both for public use;

~~(39)~~(38) To provide for the appointment and financial support of a library board in accordance with the provisions of article one, chapter ten of this code;

~~(40)~~(39) To establish and maintain a public health unit in accordance with the provisions of section two, article two, chapter sixteen of this code, which unit shall exercise its powers and perform its duties subject to the supervision and control of the West Virginia Board of Health and State Bureau for Public Health;

~~(41)~~(40) To establish, construct, acquire, maintain and operate hospitals, sanitariums and dispensaries;

~~(42)~~(41) To acquire, by purchase, condemnation or otherwise, land within or near the corporate limits of the municipality for providing and maintaining proper places for the burial of the dead and to maintain and operate the same and regulate interments therein upon terms and conditions as to price and otherwise as may be determined by the governing body and, in order to carry into effect the authority, the governing body may acquire any cemetery or cemeteries already established;

~~(43)~~(42) To exercise general police jurisdiction over any territory without the corporate limits owned by the municipality or over which it has a right-of-way;

~~(44)~~(43) To protect and promote the public morals, safety, health, welfare and good order;

~~(45)~~(44) To adopt rules for the transaction of business and the government and regulation of its governing body;

~~(46)~~(45) Except as otherwise provided, to require and take bonds from any officers, when considered necessary, payable to the municipality, in its corporate name, with such sureties and in a penalty as the governing body may see fit, conditioned upon the faithful discharge of their duties;

~~(47)~~(46) To require and take from the employees and contractors such bonds in a penalty, with such sureties and with such conditions, as the governing body may see fit;

~~(48)~~(47) To investigate and inquire into all matters of concern to the municipality or its inhabitants;

~~(49)~~(48) To establish, construct, require, maintain and operate such instrumentalities, other than free public schools, for the instruction, enlightenment, improvement, entertainment, recreation and welfare of the municipality's inhabitants as the governing body may consider necessary or appropriate for the public interest;

~~(50)~~(49) To create, maintain and operate a system for the enumeration, identification and registration, or either, of the inhabitants of the municipality and visitors thereto, or the classes thereof as may be considered advisable;

~~(51)~~(50) To require owners, residents or occupants of factory-built homes situated in a factory-built rental home community with at least ten factory-built homes, to visibly post the specific numeric portion of the address of each factory-built home on the immediate premises of the factory-built home of sufficient size to be visible from the adjoining street: *Provided*, That in the event no numeric or other specific designation of an address exists for a factory-built home subject to the authorization granted by this subdivision, the municipality has the authority to provide a numeric or other specific designation of an address for the factory-built home and require that it be posted in accordance with the authority otherwise granted by this section.

~~(52)~~(51) To appropriate and expend not exceeding twenty-five cents per capita per annum for advertising the municipality and the entertainment of visitors;

~~(53)~~(52) To conduct programs to improve community relations and public relations generally and to expend municipal revenue for such purposes;

~~(54)~~(53) To reimburse applicants for employment by the municipality for travel and other reasonable and necessary expenses actually incurred by the applicants in traveling to and from the municipality to be interviewed;

~~(55)~~(54) To provide revenue for the municipality and appropriate the same to its expenses;

~~(56)~~(55) To create and maintain an employee benefits fund which may not exceed one tenth of one percent of the annual payroll budget for general employee benefits and which is set up for the purpose of stimulating and encouraging employees to develop and implement cost-saving ideas and programs and to expend moneys from the fund for these purposes;

~~(57)~~(56) To enter into reciprocal agreements with governmental subdivisions or agencies of any state sharing a common border for the protection of people and property from fire and for emergency medical services and for the reciprocal use of equipment and personnel for these purposes;

~~(58)~~(57) To provide penalties for the offenses and violations of law mentioned in this section, subject to the provisions of section one, article eleven of this chapter, and such penalties may not exceed any penalties provided in this chapter and chapter sixty-one of this code for like offenses and violations; ~~and~~

~~(59)~~(58) To participate in a purchasing card program for local governments authorized and administered by the State Auditor as an alternative payment method; and

(59) To enter into agreements with one or more other municipalities, and with county commissions to combine and share selected governmental services by combining operations, equipment, and employees into a unified government service.”

Having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 387**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Chiarelli.

Absent and Not Voting: Bridges, Hardy, McGeehan, Ward, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3354) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3354 - “A Bill to amend and reenact §8-12-5 of the Code of West Virginia, 1931, as amended, relating to the power and duties of municipalities; authorizing municipalities to combine operations with other municipalities and counties to provide governmental services; removing authority for regulation of keeping gunpowder and other combustibles; and clarifying that a firearm violation is a violation of only state law.”

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

H. B. 3371, Relating to federal funds for land-grant institutions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 388**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hardy, Ward, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3371) passed.

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

Com. Sub. for H. B. 3405, Change the maximum time period of a protective order to one year; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 389**), and there were—yeas 81, nays 13, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Butler, Cannon, Dillon, Garcia, Hansen, Holstein, Hornby, Keaton, E. Pritt, Pushkin, Summers, Walker and Young.

Absent and Not Voting: Bridges, Hardy, Skaff, Ward, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3405) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3405 - “A Bill to amend and reenact §48-27-505 of the Code of West Virginia, 1931, as amended, relating to changing the time period of a protective order or protective language to one year; and allowing a protective order or protective language of longer than one year if the family court finds, after hearing, that extraordinary circumstances exist.”

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

H. B. 3408, To clean up statutory provisions regarding the Hope Scholarship program to better reflect the intent and operation of the program; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment offered by Delegates Crouse and Ellington was reported by the Clerk on page 2, after the enacting clause, by striking out the remainder of the bill and inserting, in lieu thereof, the following:

“ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Compulsory school attendance; exemptions.

(a) Exemption from the requirements of compulsory public school attendance established in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section is subject to confirmation by the attendance authority of the county. A child who is exempt from compulsory school attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a status offender as defined by §49-1-202 of this code. A child who is exempt from compulsory school attendance under this section is not subject to the requirements of §18-31-1, *et seq.* of this code unless that child is an eligible recipient as defined by §18-31-2a of this code.

(b) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to instruction in a private, parochial, or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all private, parochial, or other schools approved pursuant to this subsection, it is the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction, and progress of students enrolled.

(c) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of either subdivision (1); or subdivision (2) of this subsection, both relating to home instruction, are met:

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give

instruction in subjects required to be taught in public elementary schools in the state. The person or persons providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required periodically with respect to attendance, instruction, and progress of students receiving the instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: *Provided*, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(A) Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher

education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(C) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(D) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

~~(E) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June 30 of the year in which the assessment was administered.~~

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection.

(A) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing home instruction. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(B) A child receiving home instruction pursuant to this section may also be referred to throughout this code as a "home school student" or similar reference.

(d) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if conditions rendering school attendance impossible or hazardous to the life, health, or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to alternative private, parochial, church, or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order, or other nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in §18-8-1a of this code from the compulsory attendance provision of this article.

~~(m) A child is exempt from the compulsory school attendance requirements set forth in §18-8-1a of this code if the child is an~~

~~eligible recipient participating in the Hope Scholarship Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to participate in the Hope Scholarship Program to the county superintendent. The county superintendent shall enter the following into the West Virginia Education Information System (WVEIS):~~

~~(1) The filing of the notice of intent pursuant to this subsection;~~

~~(2) In the case of a Hope Scholarship recipient who chooses an individualized instructional program, annually, the child's test results or determination that a student is making academic progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4) of this code; and~~

~~(3) In the case of an eligible recipient enrolling in a participating school, annually, the filing of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.~~

(m) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in an Assembled Instructional Module pursuant to this subsection: *Provided*, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(1) For the purposes of this subsection an Assembled Instructional Module means a program of study organized and facilitated by either the child's parent or legal guardian or educational service provider or providers chosen by the child's parent or legal guardian. Participation may take place in the child's home or in a location chosen by the parent or legal guardian.

(2) Upon beginning participation in an Assembled Instructional Module pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent or county board a notice of intent to participate in an Assembled

Instructional Module that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in an Assembled Instructional Module for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to participate in an Assembled Instructional Module shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in an Assembled Instructional Module takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in an Assembled Instructional Module. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(6) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child no later than June 8th every year.

(7) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a Assembled Instructional Module may, upon approval of the county board, exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

(8) Notwithstanding any provision of this code to the contrary, Assembled Instructional Module students shall have all of the educational rights and privileges this code makes available to home school students who receive instruction pursuant to subsection (c) of this section and may participate in any state or county program available to home school students: *Provided*, That nothing in this section may be construed as making Assembled Instructional Module students the same as homeschool students or as subjecting home school students to the requirements of this section.

(n) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in a learning pod or microschool pursuant to this subsection.

(1) For the purposes of this subsection:

(A) "Learning pod" means a voluntary association of parents choosing to group their children together to participate in their elementary or secondary academic studies as an alternative to enrolling in a public school, private school, homeschool, or microschool, including participation in an activity or service provided to the children in exchange for payment; and

(B) "Microschool" means a school initiated by one or more teachers or an entity created to operate a school that charges tuition for the students who enroll and is an alternative to enrolling in a public school, private school, homeschool, or learning pod.

(2) Upon beginning participation in a learning pod or microschool pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent or county board a notice of intent to participate in a learning pod or microschool that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in a learning pod or microschool for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to participate in a learning pod or microschool shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in a learning pod or microschool takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The

child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in a learning pod or microschool. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

~~(6) The parent, legal guardian, learning pod, or microschool shall submit to the county superintendent the results of the academic assessment of the child with the same frequency prescribed in §18-8-1(e)(2)(E) of this code: *Provided*, That instead of the academic assessment results being submitted individually, the learning pod or microschool may submit the school composite results.~~

(7) (6) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a learning pod or microschool may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

(8) (7) No learning pod or microschool which meets the requirements of this subsection is subject to any other provision of law relating to education: *Provided*, That any learning pod or microschool which has a student requiring special education instruction must comply with the provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for the protection of that exceptional student.

~~(9) Making learning pods and microschools subject to the home instruction provisions and requirements does not make learning pods and microschools the same as homeschooling. (8) Notwithstanding any provision of this code to the contrary, learning pod and microschool students shall have all of the educational rights and privileges this code makes available to home school students who receive instruction pursuant to subsection (c) of this section and may participate in any state or county program available to home school students: *Provided*, That nothing in this section may be construed as making learning pod or microschool students the same as homeschool students or as subjecting home school students to the requirements of this section.~~

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 ~~eligible Hope Scholarship applications received by the Hope Scholarship Board, if available~~ 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 ~~to the Department of Education that was not transferred to the Hope Scholarship Board due to an accumulated balance from prior years as provided under subsection (b) of this section 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 ~~the sum of:~~

~~(1) Any unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from previous years; and~~

~~(2) Any unused appropriations made to the Department of Education for these purposes that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior 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 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 content area or grade level, including 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 is eligible to participate in the Hope Scholarship Program according to §18-31-2a of this code.

~~(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) "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;

(9) "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;

"Public school" means a kindergarten, elementary, or secondary county school, a public charter school, a virtual public charter school, or any other publicly supported elementary or secondary school in this state.

(10) "Resident school district" means the county school district in which the student resides; and

(11) "Treasurer" means the West Virginia State Treasurer.

§18-31-2a. Eligibility for the Hope Scholarship Program.

(a) To participate in the Hope Scholarship Program, a student must:

(1) Be a resident of the State of West Virginia;

(2) Have filed a notice of intent or notice of enrollment pursuant to §18-8-1(b), (k), (m), or (n) of this code to pursue a kindergarten, elementary, or secondary educational option authorized by that section in lieu of compulsory public school attendance for the applicable year;

(3) Have indicated in the notice of intent or notice of enrollment that the student will participate in the Hope Scholarship Program;

(4) Meet all requirements of this code and the Department of Education related to the exemption in §18-8-1(b), (k), (m), or (n) of this code that applies to the student; and

(5) Meet one of the following criteria:

(A) Is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code;

(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 pursuant to §18-31-5(c) of this code;

(C) Is enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or

(D) Is eligible to renew his or her Hope Scholarship according to §18-31-8 of this code.

(b) Notwithstanding subsection (a) of this section, 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, a student is eligible to participate in the Hope Scholarship Program beginning on July 1, 2026, if he or she meets the following eligibility criteria:

(1) The student is a resident of West Virginia; and

(2) On or after July 1, 2026, the student is enrolled, eligible to be enrolled, or required to be enrolled in a public school program in this state at the time of application.

(c) Notwithstanding subsection (a) of this section, a child is not eligible to participate or continue to participate in the Hope Scholarship Program if:

(1) The student has successfully completed a secondary education program;

(2) The student is no longer a resident of the State of West Virginia; or

(3) The student is enrolled full-time in a public school.

(d) For each student participating in the Hope Scholarship Program, the county superintendent shall enter the information provided in the student's notice of intent or notice of enrollment into West Virginia Education Information System (WVEIS). The WVEIS entry must clearly indicate that the student will participate in the Hope Scholarship Program, along with any information required by the Hope Scholarship Board to determine program eligibility.

§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 members shall reside in geographically diverse areas of the state;

(C) Members shall be initially appointed to staggered terms as follows:

(i) One member appointed by the Governor to a one-year term;

(ii) One member appointed by the Governor to a two-year term;
and

(iii) One member each appointed by the Governor to a three-year term.

After the initial staggering of terms, appointed 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 Chapter 6B 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, including the authority to propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code, including emergency rules, if necessary;

(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; and

(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.

§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 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 make such applications available no later than March 1, 2022 and shall begin accepting applications immediately thereafter. 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 for in ~~§18-31-2(5)~~ §18-31-2a 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 as provided for in §18-31-7 of this code;

(C) To comply with the rules and requirements of the Hope Scholarship program; and

(D) To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

(4) The board confirms with the West Virginia Department of Education that the student satisfies ~~§18-31-2(5)(B)~~ §18-31-2a of this code: *Provided*, That if the department does not reply within 30 days, this criteria is considered satisfied.

(e) ~~An application for a Hope Scholarship is~~ 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 total number of eligible Hope Scholarship applications received by the board, 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)~~ (12) 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

(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 pursuant to an exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code:

(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;

(2) Tuition and fees at a participating school;

(3) Tuition and fees at a microschool established pursuant to §18-8-1(n) of this code;

~~(3)~~ (4) 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)~~ (5) 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)~~ (6) 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)~~ (7) Tuition and fees for nonpublic online learning programs;

~~(7)~~ (8) Tuition and fees for alternative education programs;

~~(8)~~ (9) Fees for after-school or summer education programs;

~~(9)~~ (10) Educational services and therapies, including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

~~(10)~~ (11) Curriculum as defined in §18-31-2 of this code;

~~(11)~~ (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

~~(12)~~ (13) Any other qualified expenses as approved by the board established pursuant to §18-31-3 of this code.

(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. Hope Scholarship funds may only be used for qualifying expenses incurred to provide the student with a kindergarten, elementary, or secondary education pursuant to an exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code.

(c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or student in any manner. Any refund or rebate

for goods or services purchased with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

(d) 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. Renewal of Hope Scholarship accounts; participation in public school system.

(a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis. Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously qualified for a Hope Scholarship account remains eligible to apply for renewal 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; and

~~(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;~~

~~(ii) The mean of the child's test results in the subject areas of reading, language, mathematics, science and social studies 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 child's 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~~

(3) That the student has met all requirements for the student's exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code.

(b) If a student is required to submit documentation of academic progress or nonpublic school attendance to the county superintendent or the Board of Education pursuant to the student's exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code, the student must submit the information at least annually to participate in the Hope Scholarship Program: *Provided, That nothing in this Act may be construed to impose additional requirements on students who are exempt from compulsory school attendance and who do not participate in the Hope Scholarship Program.*

~~(b)~~ (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 Department of Education each year on or before June 15.

~~(e)~~ (d) If a parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent chooses not to renew 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.

(d) (e) If an eligible recipient decides to return to the Hope Scholarship Program after failing to renew, they must reapply.

(e) (f) 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.

(f) (g) 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~~ Assembled Instructional Module as defined by §18-8-1(m)(1) of this code. 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 shall charge tuition to Hope Scholarship students who enroll for services in a public school within the county. 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.

§18-31-9. Administration of Hope Scholarship accounts.

(a) In addition to the duties, obligations, and authority stated in this section and in other parts of this article, the board has the following duties, obligations, and authority with respect to the administration of Hope Scholarship accounts:

(1) To maintain an updated list of participating schools and other education service providers and ~~shall~~ ensure that the list is publicly available through various sources, including the internet;

(2) To provide parents with a written explanation of the allowable uses of Hope Scholarship funds, the responsibilities of parents, the duties of the board and the role of any private financial management firms or other private organizations that the board may contract with to administer the Hope Scholarship Program or any aspect of the program; and

(3) To ensure that parents of students with a disability receive notice that participation in the Hope Scholarship Program is a parental placement under 20 U.S.C. § 1412 of the Individuals with Disabilities Education Act (IDEA) along with an explanation of the rights that parentally placed students possess under (IDEA) and any applicable state laws and regulations.

(b) The board may contract with private organizations to administer the Hope Scholarship Program. This includes, but is not limited to, private financial management firms to manage Hope Scholarship accounts.

(c) The board may contract with independent auditors to complete the audits authorized in §18-31-9 of this code.

~~(e)~~ (d) The board shall implement, or contract with a private organization to implement, a commercially viable, cost effective, and parent-friendly system for payment for services from Hope Scholarship accounts to participating schools or education service providers, including, but not limited to, the use of debit cards or other electronic or online fund transfers: *Provided*, That a Hope Scholarship account may not be reduced for debit card or electronic payment fees.

~~(d)~~ (e) The board shall also seek to implement a commercially viable, cost-effective, and parent-friendly system for publicly rating, reviewing, and sharing information about participating schools and education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers so as

to create a one-stop-shop for parents and Hope Scholarship students.

(e) (f) If an education service provider requires partial payment of tuition or fees prior to the start of the academic year to reserve space for a Hope Scholarship student admitted to the education service provider, such partial payment may be paid prior to the start of the school year in which the Hope Scholarship is awarded, and deducted in an equitable manner from subsequent Hope Scholarship deposits to ensure adequate funds remain available throughout the school year; but if a Hope Scholarship student decides not to use the education service provider, the partial reservation payment must be returned to the board by such education service provider and credited to the student's Hope Scholarship account.

(f) (g) The board may accept gifts and grants from any source to cover administrative costs, to inform the public about the Hope Scholarship Program, or to provide additional funding for Hope Scholarship Accounts.

(g) (h) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* and §18-31-4(4) of this code; ~~including emergency rules, if necessary, to meet timelines set forth in this article, that are not inconsistent with this article and that are necessary~~ for the administration of this article, including but not limited to:

(1) Establishing or contracting for the establishment of a fraud reporting system;

(2) Policies that require a surety bond for education service providers receiving more than \$100,000 in Hope Scholarship funds;

(3) Procedures for refunding payments from education service providers back to Hope Scholarship accounts; and

(4) Procedures for entering into reciprocal agreements with other state education savings account agencies or entities, whether public or private, to recognize and allow education service

providers approved in other states to receive payments from Hope Scholarship accounts under this article.

~~(h)~~ (i) The rules or policies adopted by the board should avoid excessive bureaucracy and overly prescriptive mandates and instead shall focus on encouraging participation in the program and encouraging education service providers to provide parents and Hope Scholarship students with a broad array of educational options.

§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

(a) The board may propose legislative rules for legislative 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 conduct or contract for the audit of education service providers accepting payments from Hope Scholarship accounts. if it determines that the education service provider has:~~

~~(1) Intentionally and substantially misrepresented information or failed to refund any overpayments in a timely manner; or~~

~~(2) Routinely failed to provide students with promised educational goods or services.~~

(c) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* and §18-31-4(4) 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) ~~Agree to submit~~ Submit any employee or other person who will have contact with Hope Scholarship students receiving benefits from the provider to a criminal background check and certify the results of said background check to the Board: *Provided*, That the Board may propose rules pursuant §29A-3-1 *et seq.* and §18-31-4(4) of this code to suspend or disqualify a person from serving as an education service provider, based on charges, indictment, or conviction of sexual offenses or felonies involving violence against another person; and

(6) In the case of a participating school, provide notice of 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 or fees above 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.

Delegate Fluharty moved to amend the amendment on page 2, section 1, line 36, following the words “deny home instruction” by striking out the period, inserting a colon and the following proviso:

“Provided, however, That the county superintendent may not authorize instruction in the home if there is a pending child abuse or neglect investigation pursuant to §49-2-801 *et seq.* of this code against either custodial parent or a person instructing the child, or if either custodial parent or a person instructing the child has ever been convicted of domestic violence pursuant to §48-27-101 *et seq.* of this code or child abuse or neglect pursuant to §61-8D-1 *et seq.* of this code.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 390**), and there were—yeas 25, nays 71, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Capito, Clark, Dittman, Fast, Ferrell, Fluharty, Garcia, Griffith, Hansen, Hite, Hornbuckle, Kirby, Marple, E. Pritt, Pushkin, Reynolds, Rowe, Shamblin, Skaff, Storch, Vance, Walker, Westfall, Williams and Young.

Absent and Not Voting: Bridges, Hardy, Nestor and Ward.

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

The amendment sponsored by Delegates Crouse and Ellington was then adopted.

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 391**), and there were—yeas 95, nays none,

absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hardy, Nestor, E. Pritt and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3408) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

H. B. 3408 - “A Bill to amend and reenact §18-8-1 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, §18-31-9, §18-31-10, and §18-31-11 of said code; and to amend said code by adding thereto a new section, designated §18-31-2a, all relating generally to nonpublic kindergarten, elementary, and secondary school education; clarifying that a child exempt from compulsory school attendance is not subject to the requirements of the Hope Scholarship Program unless that child is an eligible recipient; removing requirement that academic assessments of home school students be submitted to county superintendent; clarifying use of “home school student” in code; removing participation in the Hope Scholarship Program as a standalone exemption to compulsory school attendance and replacing it with an exemption from compulsory school attendance for those who choose to participate in an Assembled Instructional Module; setting forth parameters of participation in an Assembled Instructional Module; providing that students participating in an Assembled Instructional Module, learning pod students and microschool students have the same educational rights and privileges as home school students; removing requirement that academic assessments of learning pod students and microschool students be submitted to county superintendent; establishing the method of calculating the annual Hope Scholarship Program appropriation; providing that certain students exempt from compulsory school attendance and participating in nonpublic educational programs may participate in the Hope Scholarship Program if other eligibility requirements are

met; defining terms; establishing eligibility requirements for the Hope Scholarship Program; setting forth procedure for notice of Hope Scholarship Program participation; requiring county superintendents to enter certain information into the state's educational information system; permitting the State Treasurer to appear by designee at Hope Scholarship Board meetings; providing the State Treasurer's Office with rulemaking authority; clarifying that all records containing personally identifying information of a Hope Scholarship student, applicant, or parent are confidential and not subject to disclosure pursuant to the West Virginia Freedom of Information Act; clarifying qualifying expenses under the Hope Scholarship Act; requiring Hope Scholarship students to meet all standardized testing and portfolio requirements for his or her exemption from compulsory school attendance as a condition of scholarship renewal; requiring the board to maintain and publish a list of all education service providers; authorizing the board to contract with independent auditors to complete Hope Scholarship Program audits; clarifying the board's rulemaking authority with regard to certain functions, requiring education service providers to submit required criminal background screening results to the board; and clarifying that education service providers may not assess students additional tuition or fees based on participation in the Hope Scholarship Program."

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

On this question, the yeas and nays were taken (**Roll No. 392**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hardy, Nestor, E. Pritt and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3408) takes effect from its passage.

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

H. B. 3451, Updating the veteran preference ratings in state code for state employment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 393**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hardy, Nestor, E. Pritt and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3451) passed.

On motion of Delegate Phillips, the title of the bill was amended to read as follows:

H. B. 3451 – “A Bill to amend and reenact §6-13-1 of the Code of West Virginia, 1931, as amended, relating to updating the veteran preference ratings in state code for state employment; providing definitions; and creating an exemption.”

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

Com. Sub. for H. B. 3480, Enact the West Virginia Consumer Financial Privacy Act of 2023; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment sponsored by Delegates Keaton and Cannon was reported by the Clerk.

Whereupon,

Delegate Keaton asked and obtained unanimous consent that the amendment be withdrawn.

Delegates Keaton and Cannon moved to amend the bill on page 1, immediately following the article header by striking the remainder of the bill and inserting in lieu thereof the following:

“§46A-6O-1. Definitions.

As used in this article, unless the context requires a different meaning:

‘Affiliate’ means a legal entity that controls, is controlled by, or is under common control with another legal entity or shares common branding with another legal entity. For the purposes of this definition, ‘control’ or ‘controlled’ means:

(1) Ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(2) Control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(3) The power to exercise controlling influence over the management of a company.

‘Authenticate’ means verifying through reasonable means that the consumer, entitled to exercise his consumer rights in §46A-6O-3 of this code, is the same consumer exercising such consumer rights with respect to the personal data at issue.

‘Biometric data’ means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual. ‘Biometric data’ does not include a physical or digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under HIPAA.

‘Business associate’ means the same meaning as the term established by HIPAA.

‘Child’ means any natural person younger than 13 years of age.

‘Consent’ means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to

process personal data relating to the consumer. Consent may include a written statement, including a statement written by electronic means, or any other unambiguous affirmative action. Consent does not include consent induced by use of a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice.

‘Consumer’ means a natural person who is a resident of the State acting only in an individual or household context. It does not include a natural person acting in a commercial or employment context.

‘Controller’ means the natural or legal person that, alone or jointly with others, determines the purpose and means of processing personal data.

‘Covered entity’ means the same as the term is established by HIPAA.

‘Decisions that produce legal or similarly significant effects concerning a consumer’ means a decision made by the controller that results in the provision or denial by the controller of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities, such as food and water.

‘De-identified data’ means data that cannot reasonably be linked to an identified or identifiable natural person, or a device linked to such person. A controller that possesses ‘de-identified data’ shall comply with the requirements of subsection (a) of §46A-6O-7.

‘Fund’ means the Consumer Privacy Fund established pursuant to §46A-6O-11 of this code.

‘Health record’ means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. ‘Health record’ also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the

provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

‘Health care provider’ means the same as that term is defined in §16-30-3 of this code.

‘HIPAA’ means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320d *et seq.*).

‘Identified or identifiable natural person’ means a person who can be readily identified, directly or indirectly.

‘Institution of higher education’ means a state institution of higher education as defined in §18B-1-2 of this code and, includes further, any private institution of higher education.

‘Nonprofit organization’ means any corporation organized under the West Virginia Nonprofit Corporation Act, Chapter §31-1-101 of this code, *et seq.*, or any organization exempt from taxation under §§501(c)(3), 501(c)(6), or 501(c)(12) of the Internal Revenue Code.

‘Personal data’ means any information that is linked or reasonably linkable to an identified or identifiable natural person. ‘Personal data’ does not include de-identified data or publicly available information.

‘Precise geolocation data’ means information derived from technology, including, but not limited to, global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of a natural person with precision and accuracy within a radius of 1,750 feet. ‘Precise geolocation data’ does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

‘Process’ or ‘processing’ means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use,

storage, disclosure, analysis, deletion, or modification of personal data.

‘Processor’ means a natural or legal entity that processes personal data on behalf of a controller.

‘Profiling’ means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

‘Protected health information’ means the same as the term is established by HIPAA.

‘Pseudonymous data’ means personal data that cannot be attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

‘Publicly available information’ means information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

‘Sale of personal data’ means the exchange of personal data for monetary consideration by the controller to a third party. ‘Sale of personal data’ does not include:

(1) The disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(2) The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(3) The disclosure or transfer of personal data to an affiliate of the controller;

(4) The disclosure of information that the consumer (i) intentionally made available to the general public via a channel of mass media and (ii) did not restrict to a specific audience; or

(5) The disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

‘Sensitive data’ means a category of personal data that includes:

(1) Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status;

(2) The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;

(3) The personal data collected from a known child; or

(4) Precise geolocation data.

‘State agency’ means the same as that term is defined in §6D-1-1 of this code and

‘Targeted advertising’ means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests. ‘Targeted advertising’ does not include:

(1) Advertisements based on activities within a controller's own websites or online applications;

(2) Advertisements based on the context of a consumer's current search query, visit to a website, or online application;

(3) Advertisements directed to a consumer in response to the consumer's request for information or feedback; or

(4) Processing personal data processed solely for measuring or reporting advertising performance, reach, or frequency.

‘Third party’ means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

§46A-6O-2. Scope; exemptions.

(a) This article applies to persons that conduct business in the state or produce products or services that are targeted to residents of the state and that (i) during a calendar year, control or process personal data of at least 100,000 consumers or (ii) control or process personal data of at least 25,000 consumers and derive over 50 percent of gross revenue from the sale of personal data.

(b) This article shall not apply to any:

(1) Body, authority, board, bureau, commission, district, or agency of the state or of any political subdivision of the state;

(2) Financial institutions or data subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. §6801 *et seq.*);

(3) Covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 established pursuant to HIPAA, and the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5);

(4) Nonprofit organization; or

(5) Institution of higher education.

(c) The following information and data is exempt from this article:

(1) Protected health information under HIPAA;

(2) Health records for purposes of Title 32.1;

(3) Patient identifying information for purposes of 42 U.S.C. §290dd-2;

(4) Identifiable private information for purposes of the federal policy for the protection of human subjects under 45 C.F.R. Part 46; identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by The International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; the protection of human subjects under 21 C.F.R. Parts 6, 50, and 56, or personal data used or shared in research conducted in accordance with the requirements set forth in this chapter, or other research conducted in accordance with applicable law;

(5) Information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986 (42 U.S.C. §11101 *et seq.*);

(6) Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act (42 U.S.C. §299b-21 *et seq.*);

(7) Information derived from any of the health care-related information listed in this subsection that is de-identified in accordance with the requirements for de-identification pursuant to HIPAA;

(8) Information originating from, and intermingled to be indistinguishable with, or information treated in the same manner as information exempt under this subsection that is maintained by a covered entity or business associate as defined by HIPAA or a program or a qualified service organization as defined by 42 U.S.C. §290dd-2;

(9) Information used only for public health activities and purposes as authorized by HIPAA;

(10) The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, furnisher, or user that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act (15 U.S.C. §1681 *et seq.*);

(11) Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. §2721 *et seq.*);

(12) Personal data regulated by the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g *et seq.*);

(13) Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act (12 U.S.C. §2001 *et seq.*); and

(14) Data processed or maintained:

(A) In the course of an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent that the data is collected and used within the context of that role;

(B) As the emergency contact information of an individual under this chapter used for emergency contact purposes; or

(C) That is necessary to retain to administer benefits for another individual relating to the individual under §46A-6O-2(c)(14)(A) of this code and used for the purposes of administering those benefits.

(d) Controllers and processors that comply with the verifiable parental consent requirements of the Children's Online Privacy Protection Act (15 U.S.C. §6501 *et seq.*) shall be deemed compliant with any obligation to obtain parental consent under this chapter.

§46A-6O-3. Personal data rights; consumers.

(a) A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding processing personal data belonging to the known child. A controller shall comply with an authenticated consumer request to exercise the right:

(1) To confirm whether or not a controller is processing the consumer's personal data and to access such personal data;

(2) To correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(3) To delete personal data provided by or obtained about the consumer;

(4) To obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means; and

(5) To opt out of the processing of the personal data for purposes of:

(A) Targeted advertising;

(B) The sale of personal data; or

(C) Profiling in furtherance of decisions that produce legal or similarly significant effects concerning the consumer.

(b) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the

consumer rights authorized pursuant to the provisions of §46A-6O-3(a) of this code as follows:

(1) A controller shall respond to the consumer without undue delay, but in all cases within 45 days of receipt of the request submitted pursuant to the methods described in §46A-6O-3(a) of this code. The response period may be extended once by 45 additional days when reasonably necessary, taking into account the complexity and number of the consumer's requests, so long as the controller informs the consumer of any such extension within the initial 45-day response period, together with the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision pursuant to §46A-6O-3(c) of this code.

(3) Information provided in response to a consumer request shall be provided by a controller free of charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4) If a controller is unable to authenticate the request using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action under subsection (a) of this section and may request that the consumer provide additional information reasonably necessary to authenticate the consumer and the consumer's request.

(c) A controller shall establish a process for a consumer to appeal the controller's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to §46A-6O-3(b)(2) of this code. The appeal

process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to §46A-6O-3(a) of this code. Within 60 days of receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the Attorney General to submit a complaint.

§46A-6O-4. Data controller responsibilities; transparency.

(a) A controller shall:

(1) Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which such data is processed, as disclosed to the consumer;

(2) Except as otherwise provided in this chapter, not process personal data for purposes that are neither reasonably necessary to nor compatible with the disclosed purposes for which such personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

(3) Establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue;

(4) Not process personal data in violation of state and federal laws that prohibit unlawful discrimination against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods and services to the consumer. However, nothing in this subdivision shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller

from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to §46A-6O-3 of this code or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program; and

(5) Not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of sensitive data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act (15 U.S.C. §6501 *et seq.*).

(b) Any provision of a contract or agreement of any kind that purports to waive or limit in any way consumer rights pursuant to §46A-6O-3 of this code shall be deemed contrary to public policy and shall be void and unenforceable.

(c) Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

(1) The categories of personal data processed by the controller;

(2) The purpose for processing personal data;

(3) How consumers may exercise their consumer rights pursuant to §46A-6O-3 of this code, including how a consumer may appeal a controller's decision with regard to the consumer's request;

(4) The categories of personal data that the controller shares with third parties, if any; and

(5) The categories of third parties, if any, with whom the controller shares personal data.

(d) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing.

(e) A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their consumer rights under this chapter. Such means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to §46A-6O-3 of this code but may require a consumer to use an existing account.

§46A-6O-5. Responsibility according to role; controller and processor.

(a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting its obligations under this chapter. Such assistance shall include:

(1) Taking into account the nature of processing and the information available to the processor, by appropriate technical and organizational measures, insofar as this is reasonably practicable, to fulfill the controller's obligation to respond to consumer rights requests pursuant to the provisions of §46A-6O-3 of this code;

(2) Taking into account the nature of processing and the information available to the processor, by assisting the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of security of the system of the processor pursuant to §46-2A-102 of this code in order to meet the controller's obligations;

(3) Providing necessary information to enable the controller to conduct and document data protection assessments pursuant to the provisions of §46A-6O-6 of this code.

(b) A contract between a controller and a processor shall govern the processor's data processing procedures with respect to processing performed on behalf of the controller. The contract shall be binding and clearly set forth instructions for processing data, the

nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and obligations of both parties. The contract shall also include requirements that the processor shall:

(1) Ensure that each person processing personal data is subject to a duty of confidentiality with respect to the data;

(2) At the controller's direction, delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

(3) Upon the reasonable request of the controller, make available to the controller all information in its possession necessary to demonstrate the processor's compliance with the obligations in this chapter;

(4) Allow, and cooperate with, reasonable assessments by the controller or the controller's designated assessor; alternatively, the processor may arrange for a qualified and independent assessor to conduct an assessment of the processor's policies and technical and organizational measures in support of the obligations under this chapter using an appropriate and accepted control standard or framework and assessment procedure for such assessments. The processor shall provide a report of such assessment to the controller upon request; and

(5) Engage any subcontractor pursuant to a written contract in accordance with subsection (c) of this section that requires the subcontractor to meet the obligations of the processor with respect to the personal data.

(c) Nothing in this section shall be construed to relieve a controller or a processor from the liabilities imposed on it by virtue of its role in the processing relationship as defined by this chapter.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A processor that continues to

adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

§46A-6O-6. Data protection assessments.

(a) A controller shall conduct and document a data protection assessment of each of the following processing activities involving personal data:

(1) The processing of personal data for purposes of targeted advertising;

(2) The sale of personal data;

(3) The processing of personal data for purposes of profiling, where such profiling presents a reasonably foreseeable risk of:

(A) Unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(B) Financial, physical, or reputational injury to consumers;

(C) A physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where such intrusion would be offensive to a reasonable person; or

(D) Other substantial injury to consumers;

(4) The processing of sensitive data; and

(5) Any processing activities involving personal data that present a heightened risk of harm to consumers.

(b) Data protection assessments conducted pursuant to §46A-6O-6(a) of this code shall identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with such processing, as mitigated by safeguards that can be employed by the controller to reduce such risks. The use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the

consumer whose personal data will be processed, shall be factored into this assessment by the controller.

(c) The Attorney General may request, pursuant to an investigative civil demand, that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General, and the controller shall make the data protection assessment available to the Attorney General. The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in §46A-6O-4 of this code. Data protection assessments shall be confidential and exempt from public inspection and copying under the West Virginia Freedom of Information Act, §29B-1-1, *et seq.* The disclosure of a data protection assessment pursuant to a request from the Attorney General shall not constitute a waiver of attorney-client privilege or work product protection with respect to the assessment and any information contained in the assessment.

(d) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(e) Data protection assessments conducted by a controller for the purpose of compliance with other laws or regulations may comply under this section if the assessments have a reasonably comparable scope and effect.

(f) Data protection assessment requirements shall apply to processing activities created or generated after January 1, 2024, and are not retroactive.

§46A-6O-7. Processing de-identified data; exemptions.

(a) The controller in possession of de-identified data shall:

(1) Take reasonable measures to ensure that the data cannot be associated with a natural person;

(2) Publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) Contractually obligate any recipients of the de-identified data to comply with all provisions of this chapter.

(b) Nothing in this chapter shall be construed to require a controller or processor to:

(1) Re-identify de-identified data or pseudonymous data; or

(2) Maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

(c) Nothing in this chapter shall be construed to require a controller or processor to comply with an authenticated consumer rights request, pursuant to §46A-6O-3 of this code, if all of the following are true:

(1) The controller is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(2) The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer; and

(3) The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this section.

(d) The consumer rights contained in §46A-6O-3 and §46A-6O-4 of this code do not apply to pseudonymous data in cases where the controller is able to demonstrate any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing such information.

(e) A controller that discloses pseudonymous data or de-identified data shall exercise reasonable oversight to monitor

compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§46A-6O-8. Limitations.

(a) Nothing in this article shall be construed to restrict a controller's or processor's ability to:

(1) Comply with federal, state, or local laws, rules, or regulations;

(2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;

(3) Cooperate with law-enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws, rules, or regulations;

(4) Investigate, establish, exercise, prepare for, or defend legal claims;

(5) Provide a product or service specifically requested by a consumer, perform a contract to which the consumer is a party, including fulfilling the terms of a written warranty, or take steps at the request of the consumer prior to entering into a contract;

(6) Take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or of another natural person, and where the processing cannot be manifestly based on another legal basis;

(7) Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;

(8) Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board, or similar independent oversight entities that determine:

(A) If the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller;

(B) The expected benefits of the research outweigh the privacy risks; and

(C) If the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with reidentification; or

(D) Assist another controller, processor, or third party with any of the obligations under this subsection.

(b) The obligations imposed on controllers or processors under this chapter shall not restrict a controller's or processor's ability to collect, use, or retain data to:

(1) Conduct internal research to develop, improve, or repair products, services, or technology;

(2) Effectuate a product recall;

(3) Identify and repair technical errors that impair existing or intended functionality; or

(4) Perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

(c) The obligations imposed on controllers or processors under this chapter shall not apply where compliance by the controller or

processor with this chapter would violate an evidentiary privilege under the laws of this state. Nothing in this article shall be construed to prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the state as part of a privileged communication.

(d) A controller or processor that discloses personal data to a third-party controller or processor, in compliance with the requirements of this article, is not in violation of this article if the third-party controller or processor that receives and processes such personal data is in violation of this article, provided that, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation. A third-party controller or processor receiving personal data from a controller or processor in compliance with the requirements of this article is likewise not in violation of this article for the transgressions of the controller or processor from which it receives such personal data.

(e) Nothing in this article shall be construed as an obligation imposed on controllers and processors that adversely affects the rights or freedoms of any persons, such as exercising the right of free speech pursuant to the First Amendment to the United States Constitution, or applies to the processing of personal data by a person in the course of a purely personal or household activity.

(f) Personal data processed by a controller pursuant to this section shall not be processed for any purpose other than those expressly listed in this section unless otherwise allowed by this article. Personal data processed by a controller pursuant to this section may be processed to the extent that such processing is:

(1) Reasonably necessary and proportionate to the purposes listed in this section; and

(2) Adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section. Personal data collected, used, or retained pursuant to §46A-6O-8(b) of this code, shall, where applicable, take into account the nature and purpose or

purposes of such collection, use, or retention. Such data shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to such collection, use, or retention of personal data.

(g) If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements in §46A-6O-8(f) of this code.

(h) Processing personal data for the purposes expressly identified in §46A-6O-8(a) of this code shall not solely make an entity a controller with respect to such processing.

§46A-6O-9. Violations of chapter; civil penalty.

(a) The Attorney General shall have exclusive authority to enforce violations of this article.

(b) Prior to initiating any action under this article, the Attorney General shall provide a controller or processor 30 days' written notice identifying the specific provisions of this article the Attorney General, on behalf of a consumer, alleges have been or are being violated. If within the 30 days the controller or processor cures the noticed violation and provides the Attorney General an express written statement that the alleged violations have been cured and that no further violations shall occur, no action for statutory damages shall be initiated against the controller or processor.

(c) If a controller or processor continues to violate this article in breach of an express written statement provided to the consumer under this section, the Attorney General may initiate an action and seek damages for up to \$7,500 for each violation under this chapter.

(d) Nothing in this article shall be construed as providing the basis for, or be subject to, a private right of action to violations of this article or under any other law.

§46A-6O-10 Enforcement; civil penalty.

(a) The Attorney General retains exclusive authority to enforce this article by bringing an action in the name of the state, or on behalf of persons residing in the state. The Attorney General may issue a civil investigative demand to any controller or processor believed to be engaged in, or about to engage in, any violation of this article. The provisions of §47-18-1 of this code shall apply to civil investigative demands issued under this section.

(b) Any controller or processor that violates this article is subject to an injunction and liable for a civil penalty of not more than \$10,000 for each violation.

(c) The Attorney General may recover reasonable expenses incurred in investigating and preparing the case, including attorney fees, of any action initiated under this article.

(d) The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of this article.

§46A-6O-11. Attorney General's assistance in personal data claims.

(a) In order to effectuate the protection of personal data as defined in §46A-6O-1 of this code, the Attorney General shall establish a process whereby a consumer may seek to utilize any of the personal data protections established in §46A-6O-3 of this code through the agency of the Attorney General's Office. This process shall include:

(1) An ability to discover what controllers and processors may hold such data about the consumer;

(2) An ability to discover what third-party controllers or processors may have received such data about the consumer;

(3) An ability to formally request from each controller, third-party controller, processor, and third-party processor copies of the

personal data of the requesting person held by those entities, and to call for modification and/or deletion thereof.

(b) The Attorney General shall promulgate legislative rules necessary to carry out the provisions of this section.

§46A-6O-12. Consumer Privacy Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Consumer Privacy Fund. The Fund shall be established on the books of the Comptroller. All civil penalties collected pursuant to this article shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to support the work of the Office of the Attorney General to enforce the provisions of this article, subject to appropriation.

§46A-6O-13. Construction and Enactment.

(a) Nothing in this article shall be construed to authorize a locality to enact any law regarding the controlling or processing of personal data.

(b) Any reference to federal law or statute in this article shall be deemed to include any accompanying rules or regulations or exemptions thereto. Further, this enactment is declaratory of existing law.

(c) This article shall become effective on January 1, 2024.

ARTICLE 6P. THE WEST VIRGINIA CONSUMER CREDIT PRIVACY ACT OF 2023.

§46A-6P-1. Definitions.

For purposes of this article:

(1) ‘Consumer’ means a natural person to whom a sale, lease, or offer of a line of credit is made in a consumer transaction.

(2) ‘Consumer financial information’ means any personally identifiable financial information unless the information is otherwise publicly available, and includes information that a credit report was obtained by a financial institution, creditor, mortgage lender, or mortgage broker.

§46A-6P-2. Prohibitions on disclosure or sale of financial information.

A credit reporting agency which receives consumer financial information resulting from an application for a line of credit from any financial institution or any creditor utilizing any credit reporting agency shall not disclose or sell such consumer financial information without the consent of the consumer, except as required to process the line of credit application.

§46A-6P-3. Enforcement.

(a) The Attorney General retains exclusive authority to enforce the provisions of this article by bringing an action in the name of the state, or on behalf of persons residing in the state. The Attorney General may issue a civil investigative demand to any controller or processor believed to be engaged in, or about to engage in, any violation of this article. The provisions of §47-18-1 of this code shall apply to civil investigative demands issued under this section.

(b) Any entity violating the provisions of this article is subject to an injunction and liable for a civil penalty of not more than \$10,000 for each violation.

(c)The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of this article.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 394**), and there were—yeas 30, nays 66, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Cannon, Chiarelli, Clark, Crouse, Dean, Dillon, Fluharty, Forsht, Foster, A. Hall, Hanna, Hillenbrand, Holstein, Keaton, Linville, Longanacre, Lucas, Marple, Martin, Maynor, McGeehan, Miller, Petitto, E. Pritt, Pushkin, Walker and Young.

Absent and Not Voting: Bridges, Hardy, C. Pritt and Ward.

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

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 395**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, DeVault, Hardy and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3480) passed.

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

Com. Sub. for H. B. 3482, To create the Coal Fired Grid Stabilization and Security Act of 2023; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

On motion of Delegate Howell, the bill was amended on page on page 7, section 22B-1-7, line 58, after the word “appeal” by striking the words “from a permit issued or denied”.

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 396**), and there were—yeas 93, nays 3, absent

and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Hansen, Miller and Walker.

Absent and Not Voting: Bridges, Hardy, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3482) passed.

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

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

H. B. 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 397**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hardy, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3500) passed.

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

H. B. 3554, Relating to prohibiting a municipality or the governing body of any municipality from limiting rental of a property; having been read a third time on yesterday, was reported by the Clerk.

On motion of Delegate Kelly, the bill was postponed indefinitely.

H. B. 3561, Relating generally to creating the Joint Legislative Committee on Civic Life; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 398**), and there were—yeas 42, nays 51, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Anderson, Brooks, Cannon, Capito, Chiarelli, Clark, Criss, Dean, Garcia, W. Hall, Hanna, Holstein, Honaker, Hornby, Hott, Howell, Jeffries, Keaton, Kelly, Kimble, Linville, Lucas, Mallow, Mazzocchi, McGeehan, Nestor, Phillips, C. Pritt, E. Pritt, Pushkin, Ridenour, Shamblin, Steele, Storch, Toney, Vance, Willis, Worrell, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Skaff, Ward and Westfall.

So, a majority of the members present not having voted in the affirmative, the bill (H. B. 3561) was rejected.

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

H. B. 3562, Relating to the West Virginia Fusion Center; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 399**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Skaff, Ward, Westfall and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3562) passed.

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

At the request of Delegate Householder, and by unanimous consent, the House returned to further consideration of **Com. Sub. for H. B. 3344**, To pay certain moral obligations of the state.

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

The Speaker ruled that the Delegate was a claimant in the bill and excused the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 400**), and there were—yeas 90, nays 1, excused 1, absent and not voting 8, with the absent and not voting being as follows:

Nays: Sheedy.

Excused from Voting: Summers.

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Ward, Westfall, Young and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3344) passed.

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

On this question, the yeas and nays were taken (**Roll No. 401**), and there were—yeas 92, nays none, excused 1, absent and not voting 7, with the absent and not voting being as follows:

Excused from Voting: Summers.

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Ward, Westfall and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3344) takes effect from its passage.

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

The House then returned to consideration of **Com. Sub. for H. B. 3332**, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election.

Delegate Capito, asked and obtained unanimous consent, to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Delegate Capito then moved to amend the bill on page 1, by striking everything after the enacting clause and inserting the following:

“ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES

§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections; terms of court.

a) 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 two judges: *Provided*, That effective January 1, 2017, said circuit court shall have three judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(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 10th circuit and shall have three judges: *Provided*, That effective January 1, 2017, said circuit court shall have four judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(11) The counties of Greenbrier and Pocahontas shall constitute the 11th circuit and shall have two judges;

(12) The county of Fayette shall constitute the 12th circuit and shall have two judges;

(13) The county of Kanawha shall constitute the 13th circuit and shall have seven judges;

(14) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 14th circuit and shall have two judges;

(15) The county of Harrison shall constitute the 15th circuit and shall have three judges;

(16) The county of Marion shall constitute the 16th circuit and shall have two judges;

(17) The county of Monongalia shall constitute the 17th circuit and shall have three judges;

(18) The county of Preston shall constitute the 18th circuit and shall have one judge;

(19) The counties of Barbour and Taylor shall constitute the 19th circuit and shall have one judge: *Provided*, That effective January 1, 2019, said circuit court shall have two judges; said additional circuit judge to be appointed by the Governor and subsequently elected at the next scheduled primary election to be held in 2020 for the unexpired term pursuant to §3-10-3 of this code: *Provided, however*, That said additional circuit judge shall thereafter be elected at the regularly scheduled election(s) to be held in the year 2024 and every eighth year thereafter;

(20) The county of Randolph shall constitute the 20th circuit and shall have one judge;

(21) The counties of Grant, Mineral, and Tucker shall constitute the 21st circuit and shall have two judges;

(22) The counties of Hampshire, Hardy, and Pendleton shall constitute the 22nd circuit and shall have two judges;

(23) The counties of Berkeley, Jefferson, and Morgan shall constitute the 23rd circuit and shall have five judges: *Provided*, That effective January 1, 2017, said circuit court shall have six judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(24) The county of Wayne shall constitute the 24th circuit and shall have two judges;

(25) The counties of Lincoln and Boone shall constitute the 25th circuit and shall have two judges;

(26) The counties of Lewis and Upshur shall constitute the 26th circuit and shall have one judge: *Provided*, That effective January 1, 2017, said circuit court shall have two judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(27) The county of Wyoming shall constitute the 27th circuit and shall have one judge;

(28) The county of Nicholas shall constitute the 28th circuit and shall have one judge;

(29) The county of Putnam shall constitute the 29th circuit and shall have two judges;

(30) The county of Mingo shall constitute the 30th circuit and shall have one judge; and

(31) The counties of Monroe and Summers shall constitute the 31st circuit and shall have one judge.

~~(b) The Kanawha County circuit court shall be a court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of sickness, vacation, or other reason~~ Effective January 1, 2025, the state shall be divided into the following circuit court judicial circuits with the following number of circuit 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: *Provided*, That Tyler and Wetzel shall constitute a division in which the judge and candidates for election shall reside and Marshall shall constitute a division in which the judge and candidates for election shall reside.

(3) The counties of Doddridge, Pleasants, Ritchie, and Wirt shall constitute the third circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(4) The county of Wood 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; *Provided*, if more than two candidates from the same county receive the highest number of the votes in more than two divisions, the two candidates from the same county with the highest number of the votes cast within the circuit shall be elected to serve and the remaining candidates from the same county shall be declared ineligible to serve. *Provided, however*, in the event a candidate is determined to be ineligible to serve as a result of his or her residency, the candidate residing in the different county within the circuit, receiving the next highest number of the votes cast in the division, shall be deemed elected.

(6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

(7) The counties of Logan and Mingo shall constitute the seventh circuit and shall have three judges;

(8) The counties of McDowell and Wyoming shall constitute the eighth circuit and shall have two judges; *Provided*, That McDowell shall constitute a division in which the judge and candidates for election shall reside and Wyoming shall constitute a division in which the judge and candidates for election shall reside.

(9) The county of Mercer shall constitute the ninth circuit and shall have three judges;

(10) The county of Raleigh shall constitute the 10th circuit and shall have four judges;

(11) The county of Putnam shall constitute the 11th circuit and shall have two judges;

(12) The county of Fayette shall constitute the 12th circuit and shall have two judges;

(13) The county of Kanawha shall constitute the 13th circuit and shall have eight judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter. Until January 1, 2025 the Kanawha County circuit court shall be a court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of sickness, vacation, or other reason.

(14) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 14th circuit and shall have two judges;

(15) The county of Harrison shall constitute the 15th circuit and shall have three judges;

(16) The county of Marion shall constitute the 16th circuit and shall have two judges;

(17) The county of Monongalia shall constitute the 17th circuit and shall have three judges;

(18) The counties of Preston and Tucker shall constitute the 18th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter.

(19) The counties of Barbour and Taylor shall constitute the 19th circuit and shall have two judges.

(20) The county of Randolph shall constitute the 20th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(21) The counties of Grant and Mineral shall constitute the 21st circuit and shall have two judges.

(22) The counties of Hampshire, Hardy, and Pendleton shall constitute the 22nd circuit and shall have two judges;

(23) The counties of Berkeley, Morgan, Jefferson shall constitute the 23rd circuit and shall have six judges;

(24) The county of Wayne shall constitute the 24th circuit and shall have two judges;

(25) The counties of Boone and Lincoln shall constitute the 25th circuit and shall have two judges,

(26) The counties of Lewis and Upshur shall constitute the 26th circuit and shall have two judges: *Provided*, that Lewis shall constitute a division in which the judge and candidates for election shall reside and Upshur shall constitute s division in which the judge and candidates for election shall reside.

(27) The counties of Greenbrier, Monroe, Pocahontas and Summers shall constitute the 27th circuit and shall have three judges; *Provided*, if more than two candidates from the same county receive the highest number of the votes in more than two divisions, the two candidates from the same county with the highest number of the votes cast within the circuit shall be elected to serve and the remaining candidates from the same county shall be declared ineligible to serve. *Provided, however*, in the event a candidate is determined to be ineligible to serve as a result of his or her residency, the candidate residing in the different county within the circuit, receiving the next highest number of the votes cast in the division, shall be deemed elected.

(28) The county of Nicholas shall constitute the 28th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(c) 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, 2016~~ December 31, 2024.

(d) 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 2016 shall commence on January 1, 2017, and end on December 31, 2024. The term of office for all circuit judges elected during an election conducted in 2024 shall commence on January 1, 2025 and shall end on December 31, 2032.

(e) 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 ~~nomination or~~ 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 ~~nominated or elected. as the case may be.~~

(f) ~~Judges serving a judicial circuit comprised of four or more counties with two or more judges shall not be residents of the same county.~~

(g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit judges.”

Delegate Reynolds moved to amend the amendment on page 3, section 1, line 70, by striking out “:” and inserting in lieu thereof “.”

And,

On page 3, section 1, lines 70-72 by striking: Provided, That Tyler and Wetzel shall constitute a division in which the judge and candidates for election shall reside and Marshall shall constitute a division in which the judge and candidates for election shall reside.

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was not sustained.

Subsequently, the yeas and nays were again demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 402**), and there were—yeas 63, nays 31, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Cannon, Coop-Gonzalez, Espinosa, Garcia, Gearheart, W. Hall, Honaker, Horst, Hott, Householder, Jeffries, Keaton, Kelly, Kimble, Linville, Martin, McGeehan, Phillips, C. Pritt, Pushkin, Riley, Smith, Statler, Steele, Summers, Toney, Tully, Vance, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Ellington, Hardy, Ridenour, Ward and Westfall.

So, a majority of the members having voted in the affirmative, the amendment to the amendment was adopted.

The amendment offered by Delegate Capito, as amended, was then adopted.

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 403**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ellington, Hardy, Hillenbrand, Ward and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3332) passed.

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

Second Reading

S. B. 136, Requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have treatment

plan to be eligible for probation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 208, Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 270, Adding exemption to permit requirement for cremation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 276, Awarding service weapon of retiring State Fire Marshal; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 300, Relating to law-enforcement training and certification; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 481, Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 553, Allowing for evaluation of prequalified bidders to be based on best value; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Phillips, the bill was amended on page 2, section 10e, line 37, by inserting at the end of the sentence following the words "awarded the procurement" by inserting ": *Provided*, That the solicitation for a best value procurement include the scoring criteria and all factors used to determine the highest scoring responsive and responsible bidder when the procurement request is released".

The bill was then ordered to third reading.

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3513, Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3515, Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3518, Making a supplementary appropriation to the Department of Agriculture; on second reading, coming up in

regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3524, Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 430, Relating to State Treasurer's authority to contract with financial institutions for banking goods and services,

Com. Sub. for S. B. 490, Patrol Officer Cassie Marie Johnson Memorial Act,

S. B. 510, Supplementing and amending appropriations to BOE, Department of Education,

Com. Sub. for S. B. 526, Including Alzheimer's disease in existing public health programs,

Com. Sub. for S. B. 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription,

S. B. 605, Requiring state medical examiner to enter into contracts with procurement organization,

Com. Sub. for S. B. 613, Relating generally to certificates of need,

S. B. 679, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes,

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability,

H. B. 2904, Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary,

Com. Sub. for H. B. 2908, Supplementing and amending appropriations to the Department of Commerce, Division of Forestry,

And,

H. B. 3557, Making a supplementary appropriation to the Department of Veterans' Assistance.

Leaves of Absence

At the request of Delegate Kelly, and by unanimous consent, leaves of absence for the day were granted Delegates Bridges and Hardy.

Messages from the Executive

The following communication was laid before the House of Delegates and reported by the Clerk:

STATE OF WEST VIRGINIA

Jim Justice

Governor of West Virginia

March 1, 2023

HOUSE EXECUTIVE MESSAGE NO. 2
2023 REGULAR SESSION

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
Building 1, Room M-228
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Speaker Hanshaw:

The following amends and replaces the "General Revenue Fund - Statement of Revenues, Expenditures, and Changes in Cash

Balance" which I submitted to you on January 11, 2023 as part of my Budget Document for the fiscal year ending June 30, 2024:

General Revenue Fund

Statement of Revenues, Expenditures, and Changes in Cash
Balance (Nearest Dollar)

Actual Beginning Cash Balance July 1, 2022	\$ 1,994,018,233
Less: 31 Day Disbursements (July 1, 2022 - July 31, 2022)	(52,861,583)
Plus: Prior Year Reimbursements (July 1, 2022 - July 31, 2022)	137,305
Less: Prior Year Appropriations Forwarded	(597,407,798)
Less: Cash Balance - Adjustments and Accruals	<u>(451,758)</u>
Accumulated Surplus from FY 2022 @ July 31, 2022	\$1,343,434,399
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	0
Less: FY 2023 Surplus Appropriations (FY 2022 Surplus) (Senate Bill 250) 2022 Regular Session	(793,370,787)
Less: FY 2023 Surplus Supplemental Appropriation to the Division of Highways (SB 4002) (2022 4th EX)	(150,000,000)
Plus: Prior Year Reimbursements (August 1, 2022 - February 27, 2023)	36,566
Plus: Recommended FY 2023 Surplus Supplemental Appropriation – Expiration of State Excess Lottery Funds to General Revenue Surplus Balance	

2023]	HOUSE OF DELEGATES	1589
	(2023 Regular Session)	30,500,000
Plus:	Recommended FY 2023 Surplus Supplemental Appropriation – Expiration of Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	21,550,000
Less:	FY 2023 Recommended Various Surplus Supplemental Appropriations (2023 Regular Session)	<u>(451,810,251)</u>
	Unappropriated Surplus Balance @ December 31, 2022	\$339,927
Plus:	FY 2023 Revenue Estimate (as revised)	\$4,636,024,000
Less:	FY 2023 Appropriations (FY 2023 Budget Bill) (SB 250) (2022 Regular Session)	(4,635,701,389)
Plus:	FY 2023 Recommended Supplemental Appropriation (Education) (School Aid Formula) (2023 Regular Session)	4,559,900
Less:	FY 2023 Recommended Supplemental Appropriation Various Supplemental Appropriations (2023 Regular Session)	<u>(4,681,766)</u>
	Total Estimated Unappropriated Balance @ June 30, 2023	\$200,745
Plus:	FY 2024 Revenue Estimate (as revised 3/1/2023)	\$5,734,000,000
	FY 2024 Appropriations (FY 2024 Budget Bill) (2023 Regular Session)	<u>{4,883.768.346}</u>

Total Estimated Unappropriated
Balance@ June 30, 2024

\$850,231,654

\$850,772.326

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice
Governor

At 4:09 p.m., the House of Delegates adjourned until 11:00
a.m., Thursday, March 2, 2023.

Thursday, March 2, 2023

FIFTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 1, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Kimble announced that Com. Sub. for S. B. 188 and Com. Sub. for S. B. 594, on Second Reading, House Calendar, had been transferred to the Special Calendar; and Com. Sub. for S. B. 51, S. B. 131, Com. Sub. for S. B. 160, Com. Sub. for S. B. 205, S. B. 246, Com. Sub. for S. B. 439, Com. Sub. for S. B. 463 and S. B. 591, on First Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2024, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2024 – “A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Kimble, and by unanimous consent, the bill (Com. Sub. for H. B. 2024) was taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 539, Authorizing state and subdivisions to negotiate price for construction when all bids received exceed maximum budget,

And,

S. B. 597, Allowing Workforce WV to hire classified service exempt employees,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations,

And,

Com. Sub. for S. B. 656, Verifying legal employment status of workers to governmental agencies,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 529, Allowing businesses to register as limited liability limited partnerships,

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

Messages from the Executive

Communication from His Excellency, the Governor, advised that on March 1, 2023, he approved **Com. Sub. for H. B. 2845**, **Com. Sub. for H. B. 3164**, **Com. Sub. for S. B. 10** and **Com. Sub. for S. B. 89**.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2993, Relating to rural emergency hospital licensure.

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

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

“ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-14. The Critical Access Hospital Designation Rural Emergency Hospital Act.

(a) Definitions – As used in this section:

(1) ‘Critical Access Hospital’ means a hospital that has been deemed eligible and received designation as a critical access hospital by the Centers for Medicare and Medicaid Services (CMS).

(2) ‘Rural Emergency Hospital’ means a facility that:

(A) Was a critical access hospital;

(B) Does not provide acute care inpatient services; and

(C) Provides, at a minimum, rural emergency hospital services.

(3) ‘Rural Emergency Hospital Services’ means emergency department services and observation care furnished by a rural emergency hospital that does not exceed an annual per patient average of 24 hours in such rural emergency hospital.

(4) ‘Staffed Emergency Department’ means an emergency department of a rural emergency hospital that meets the following requirements:

(A) The emergency department is staffed 24 hours a day, 7 days a week; and

(B) A licensed physician, advanced practice registered nurse, clinical nurse specialist, or physician assistant is available to furnish rural emergency hospital services in the facility 24 hours a day.

(b) A hospital located in an urban area (Metropolitan Statistical Areas (MSA) county), can be considered rural for the purposes of a designation as a critical access hospital pursuant to U.S.C. §1395i-4(c)(2) if it meets the following criteria:

(1) Is enrolled as both a Medicaid and Medicare provider and accepts assignment for all Medicaid and Medicare patients;

(2) Provides emergency health care services to indigent patients;

(3) Maintains 24-hour emergency services; and

(4) Is located in a county that has a rural population of 50 percent or greater as determined by the most recent United States decennial census.

~~(b) (c)~~ A critical access hospital ~~designated pursuant to this section~~ may apply to be ~~designated~~ licensed as a ~~community outpatient medical center~~ rural emergency hospital if:

(1) It has been designated as a critical access hospital for at least one year; and

(2) It is designated as a critical access hospital at the time of application for licensure as a ~~to convert to a community outpatient medical center~~ rural emergency hospital.

~~(e) (d)~~ In addition to the requirements of subsection ~~(b) (c)~~ of this section, ~~a community outpatient medical center~~ rural emergency hospital shall, at a minimum:

(1) ~~Provide emergency medical care and observation care 24 hours a day, seven days a week;~~ rural emergency hospital services through a staffed emergency department;

(2) Treat all patients regardless of insurance status; and

(3) ~~Have protocols in place for the timely transfer of patients who require a higher level of care~~ in effect a transfer agreement with a Level I or Level II trauma center.

(e) A rural emergency hospital may:

(1) With respect to services furnished on an outpatient basis, provide other medical and health services as specified by the secretary through rulemaking; and

(2) Include a unit of a facility that is a distinct part licensed as a skilled nursing facility to furnish post-hospital extended care services.

~~(d)~~ (f) The department of Health and Human Resources shall propose a new rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this section.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 404**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy, Hornbuckle, Howell, Pinson, C. Pritt and Skaff.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2993) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3113, Requiring high school students to complete course of study in personal finance.

On motion of Delegate Householder, the House of Delegates concurred in the following amendment of the bill by the Senate, with further amendment, amending the title.

On page 1, section 2, line 7, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c), to read as follows:

“(c) Beginning with the class of students entering 9th grade in the 2024-2025 school year and thereafter, each high school student shall complete one-half credit course of study in personal finance during their 11th or 12th grade year as a requirement for high school graduation. The State Board of Education shall develop and issue implementation guidance to local school boards and other education agencies as to curriculum, content matter standards, eligible teacher certification(s), and graduation requirements the course may fulfill before July 1, 2024.”

With the further amendment sponsored by Delegate Ellington, amending the title of the bill to read as follows:

Com. Sub. for S. B. 3113 – “A Bill to amend and reenact §18-2-7c of the Code of West Virginia, 1931, as amended, relating to requiring each high school student to complete a one-half credit course of study in personal finance as a requirement for high school graduation; providing beginning class of students and grade level requirement; requiring implementation guidance by State Board and specifying guidance content.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 405**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Kimble.

Absent and Not Voting: Ellington, Hardy, Hornbuckle, Howell, Pinson and Skaff.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3113) passed.

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

A message from the Senate, by

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

H. B. 3141, Relating to the practice of dentistry.

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

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

“ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

As used in §30-4-1 *et seq.*, §30-4A-1 *et seq.*, and §30-4B-1 *et seq.* of this code, the following words and terms have the following meanings:

‘AAOMS’ means the American Association of Oral and Maxillofacial Surgeons;

‘AAPD’ means the American Academy of Pediatric Dentistry;

‘ACLS’ means advanced cardiac life support;

‘ADA’ means the American Dental Association;

‘AMA’ means the American Medical Association;

‘ASA’ means American Society of Anesthesiologists;

‘Anxiolysis/minimal sedation’ means removing, eliminating, or decreasing anxiety by the use of a single anxiety or analgesia medication that is administered in an amount consistent with the manufacturer’s current recommended dosage for the unsupervised treatment of anxiety, insomnia, or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use by the patient at home for the treatment of anxiety;

‘Approved dental hygiene program’ means a program that is approved by the board and is accredited, or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association;

‘Approved dental school, college, or dental department of a university’ means a dental school, college, or dental department of a university that is approved by the board and is accredited, or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association;

‘Authorize’ means that the dentist is giving permission or approval to dental auxiliary personnel to perform delegated procedures in accordance with the dentist’s diagnosis and treatment plan;

‘BLS’ means basic life support;

‘Board’ means the West Virginia Board of Dentistry;

‘Business entity’ means any firm, partnership, association, company, corporation, limited partnership, limited liability company, or other entity;

‘Central nervous system anesthesia’ means an induced, controlled state of unconsciousness or depressed consciousness produced by a pharmacologic method;

‘Certificate of qualification’ means a certificate authorizing a dentist to practice a specialty;

‘CPR’ means cardiopulmonary resuscitation;

‘Conscious sedation/moderate sedation’ means an induced, controlled state of depressed consciousness, produced through the administration of nitrous oxide and oxygen and/or the administration of other agents whether enteral or parenteral, in which the patient retains the ability to independently and

continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command;

‘CRNA’ means certified registered nurse anesthetist;

‘Defibrillator’ means ~~a device used to sustain asthmatic heartbeat in an emergency~~ an electronic device that applies an electric shock to the heart to restore the normal functional rhythm of a fibrillating, nonfunctional heart and includes an Automatic Electronic Defibrillator (AED);

‘Delegated procedures’ means those procedures specified by law or by rule of the board and performed by dental auxiliary personnel under the supervision of a licensed dentist;

‘Dentist anesthesiologist’ means a dentist who is trained in the practice of anesthesiology and has completed an additional approved anesthesia education course;

‘Dental anesthesiology’ is the specialty of dentistry and discipline of anesthesiology encompassing the art and science of managing pain, anxiety, and overall patient health during dental, oral, maxillofacial, and adjunctive surgical or diagnostic procedures throughout the entire perioperative period. The specialty is dedicated to promoting patient safety as well as access to care for all dental patients, including the very young and patients with special health care needs;

‘Dental assistant’ means a person qualified by education, training, or experience who aids or assists a dentist in the delivery of patient care in accordance with delegated procedures as specified by the board by rule or who may perform nonclinical duties in the dental office;

‘Dental auxiliary personnel’ or ‘auxiliary’ means dental hygienists and dental assistants who assist the dentist in the practice of dentistry;

‘Dental hygiene’ means the performance of educational, preventive or therapeutic dental services and as further provided in §30-4-11 of this code and legislative rule;

‘Dental hygienist’ means a person licensed by the board to practice and who provides dental hygiene and other services as specified by the board by rule to patients in the dental office and in a public health setting;

‘Dental laboratory’ means a business performing dental laboratory services;

‘Dental laboratory services’ means the fabricating, repairing, or altering of a dental prosthesis;

‘Dental laboratory technician’ means a person qualified by education, training, or experience who has completed a dental laboratory technology education program and who fabricates, repairs, or alters a dental prosthesis in accordance with a dentist’s work authorization;

‘Dental office’ means the place where the licensed dentist and dental auxiliary personnel are practicing dentistry;

‘Dental prosthesis’ means ~~an artificial appliance~~ a fixed or removable device fabricated to replace one or more teeth or other oral or peri-oral structure in order to restore or alter function or aesthetics;

‘Dental public health’ is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which considers the community to be the patient rather than any individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis;

‘Dentist’ means an individual licensed by the board to practice dentistry;

‘Dentistry’ means the evaluation, diagnosis, prevention, and treatment, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent, and associated structures and their

~~impact on the human body; maxillofacial area, and the adjacent and associated structures provided by a dentist~~

‘Direct supervision’ means supervision ~~of dental auxiliary personnel~~ provided by a licensed dentist who is physically present in the dental office or treatment facility when procedures are being performed;

‘Endodontics’ is the branch of dentistry which is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated periradicular conditions;

‘Facility permit’ means a permit for a facility where sedation procedures are used that correspond with the level of anesthesia provided;

‘General anesthesia’ means an induced, controlled state of unconsciousness in which the patient experiences complete loss of protective reflexes, as evidenced by the inability to independently maintain an airway, the inability to respond purposefully to physical stimulation or the inability to respond purposefully to verbal command;

‘Deep conscious sedation/general anesthesia’ includes partial loss of protective reflexes while the patient retains the ability to independently and continuously maintain an airway;

‘General supervision’ means a dentist is not required to be in the office or treatment facility when procedures are being performed, ~~by the auxiliary dental personnel, but has personally diagnosed the condition to be treated~~ has personally authorized the procedures to be completed, and will evaluate the treatment provided at a future appointment, by the dental auxiliary personnel;

~~‘Good moral character’ means a lack of history of dishonesty;~~

‘Health care provider BLS/CPR’ means health care provider basic life support/cardiopulmonary resuscitation;

‘License’ means a license to practice dentistry or dental hygiene;

‘Licensee’ means a person holding a license;

‘Mobile dental facility’ means any self-contained facility in which dentistry or dental hygiene will be practiced which may be moved, towed, or transported from one location to another;

‘Portable dental unit’ means any non-facility in which dental equipment, utilized in the practice of dentistry, is transported to and utilized on a temporary basis in an out-of-office location, including, but not limited to, patients’ homes, schools, nursing homes, or other institutions;

‘Oral medicine’ is the specialty of dentistry responsible for the oral health care of medically complex patients and for the diagnosis and management of medically related disorders or conditions affecting the oral and maxillofacial region;

‘Oral pathology’ is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations;

‘Oral and maxillofacial radiology’ is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region;

‘Oral and maxillofacial surgery’ is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional and

aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

‘Orofacial pain’ is the specialty of dentistry that encompasses the diagnosis, management and treatment of pain disorders of the jaw, mouth, face and associated regions, which specialty is dedicated to the evidenced-based understanding of the underlying pathophysiology, etiology, prevention, and treatment of these disorders and improving access to interdisciplinary patient care. These disorders as they relate to orofacial pain include but are not limited to temporomandibular muscle and joint (TMJ) disorders, jaw movement disorders, neuropathic and neurovascular pain disorders, headache, and sleep disorders;

‘Orthodontics and dentofacial orthopedics’ is the dental specialty that includes the diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures;

~~‘Other dental practitioner’ means those persons excluded from the definition of the practice of dentistry under the provisions of §30-4-24(3), §30-4-24(4), and §30-4-24(5) of this code and also those persons who hold teaching permits which have been issued to them under the provisions of §30-4-14 of this code~~

‘PALS’ means pediatric advanced life support;

‘Pediatric dentistry’ is an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs;

‘Pediatric patient’ means infants and children;

‘Periodontics’ is that specialty of dentistry which encompasses the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function, and aesthetics of these structures and tissues;

‘Physician anesthesiologist’ means a physician, medical doctor, or doctor of osteopathy who is specialized in the practice of anesthesiology;

‘Prosthodontics’ is the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial tissues using biocompatible substitutes;

‘Public health practice’ means treatment or procedures in a public health setting which shall be designated by a rule promulgated by the board to require direct, general, or no supervision of a dental hygienist by a dentist;

‘Public health setting’ means hospitals, schools, correctional facilities, jails, community clinics, long-term care facilities, nursing homes, home health agencies, group homes, state institutions under the West Virginia Department of Health and Human Resources, public health facilities, homebound settings, accredited dental hygiene education programs, and any other place designated by the board by rule;

‘Qualified monitor’ means an individual who by virtue of credentialing and/or training is qualified to check closely and document the status of a patient undergoing anesthesia and observe utilized equipment;

‘Relative analgesia/minimal sedation’ means an induced, controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen or single oral premedication without the addition of nitrous oxide and oxygen in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command;

‘Specialty’ means the practice of a certain branch of dentistry;

‘Subcommittee’ means West Virginia Board of Dentistry Subcommittee on Anesthesia; and

‘Work authorization’ means a written order for dental laboratory services which has been issued by a licensed dentist ~~or other dental practitioner.~~

§30-4-8a. Dental specialties.

(a) The Board of Dentistry may issue a dental specialty license authorizing a dentist to represent himself or herself to the public as a specialist, and to practice as a specialist, upon proper application and fee for each specialty and as provided pursuant to the provisions of this article.

(b) A dentist may not represent himself or herself to the public as a specialist, nor practice as a specialist, unless the individual:

(1) Has successfully completed a board-recognized dental specialty/advanced education program accredited by the Commission on Dental Accreditation;

(2) Holds a general dental license in this state; and

(3) Has completed any additional requirements set forth in state law or rules and has been issued a dental specialty license by the board.

(c) Specialties recognized by the board and the educational requirements for obtaining a specialty license shall include:

(1) Dental public health. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of one full-time academic year of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(2) Endodontics. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(3) Oral and maxillofacial surgery. — In order to qualify for this specialty, the licensee shall have successfully completed a

minimum of three full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(4) Oral and maxillofacial radiology. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time years of at least eight calendar months each, of graduate or post-graduate education, internship, or residency.

(5) Orthodontics and dentofacial orthopedics. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency. In addition, any applicant for an orthodontic and dentofacial orthopedic specialty certificate ~~commencing on July 1, 2019~~ shall submit verification of successful completion of the American Board of Orthodontics written examination.

(6) Pediatric dentistry. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(7) Periodontics. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(8) Prosthodontics. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(9) Oral pathology. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months, each of graduate or post-graduate education, internship, or residency.

(10) Dental anesthesiology. – In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years, accredited by the Commission on Dental Accreditation of the American Dental Association, through (1) a graduate or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year must have consisted of at least eight calendar months.

(11) Oral medicine. – In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years, accredited by the Commission on Dental Accreditation of the American Dental Association, through (1) a graduate or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year must have consisted of at least eight calendar months.

(12) Orofacial pain. – In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years, accredited by the Commission on Dental Accreditation of the American Dental Association, through (1) a graduate or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year must have consisted of at least eight calendar months.

(d) The licensee shall limit his or her practice of dentistry only to the specialty or specialties in which he or she is licensed and in which he or she holds himself or herself out to the public as a specialist.

~~(e) The licensee shall limit his or her listing in the telephone directory to the specialties in which he or she has an office or offices.~~ If a licensee lists his or her services in a telephone directory or on the internet, then the licensee shall only list those specialties in which he or she practices in his or her office or offices.

(f) The limitation of practice is removed for purposes of volunteering services in organized health clinics and at charitable events.

§30-4-25. Declared public health emergencies.

During a declared public health emergency, dentists and dental hygienists with a local anesthesia certificate, may administer vaccines, perform FDA-authorized diagnostic tests to screen patients for infectious diseases, triage medical patients, and perform other ancillary medical procedures and activities as requested by medical personnel.”

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

On page 3, line 69 by removing, “a fixed or removable device” and reinserting the stricken language, “an artificial appliance”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 406**), and there were—yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall, Vance and Walker.

Absent and Not Voting: Ellington, Hardy, Hornbuckle, Howell and Pinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3141) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 3218, Relating to requiring suicide prevention resources be printed on student identification cards.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect March 17, 2023, a bill of the House of Delegates, as follows:

H. B. 3307, Establishing the West Virginia-Ireland Trade Commission.

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

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

“ARTICLE 36. WEST VIRGINIA-IRELAND TRADE COMMISSION.

§29-36-1. Findings.

Findings—the Legislature finds that:

Over 15 percent of West Virginia’s population is of Irish descent, which, according to the Irish diplomat Barbara Jones, represents a higher figure than that in Boston or New York City;

The ties that bind Ireland to West Virginia are deep and lasting, reflected on West Virginia’s map from Ireland to Irish Mountain, from Tyrone to Tralee; and

Irish heritage has been the fortunate lot of many great West Virginians, such as philanthropist Bernard P. McDonough, the inventor Michael Owens, and US Senator John Kenna;

Ireland and West Virginia are attempting to reinvent their economies for success in the twenty-first century; and

West Virginians have both historic and practical reasons to desire the building of firmer commercial links with Ireland.

§29-36-2. Establishment of commission; Composition; Appointments; Vacancies.

For these and other reasons, there is hereby established the West Virginia-Ireland Trade Commission. The commission shall consist of 9 members, to be appointed as follows:

(a) Two members of the Senate, who shall be appointed by the President of the Senate, shall have knowledge of or current or past involvement in organizations that promote Irish affairs, or shall have interest in the well-being of trade relations between West Virginia and Ireland; and two members of the House of Delegates, who shall be appointed by the Speaker of the House of Delegates, shall have knowledge of or current or past involvement in organizations that promote Irish affairs, or shall have interest in the well-being of trade relations between West Virginia and Ireland. The legislative members of the commission shall serve during the two-year legislative term in which the appointments are made.

(b) Five members of the commission shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve for a term of four years. The members thus appointed shall include at least one representative from: a public institution of higher education; the West Virginia Chamber of Commerce, or its successor organization; and at least two public members shall represent Irish American communities or interest, neither of whom shall be members of the same political party.

(c) All appointments shall be made no later than July 1, 2023. A vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

§29-36-3. Compensation; Meetings; Chair; Records; Quorum.

(a) Members of the commission shall receive the same compensation authorized by law for members of the Legislature for the interim duties for each day, or portion thereof, the member is engaged in the discharge of official duties. All members shall be reimbursed for their actual and necessary expenses incurred in the discharge of official duties, except that mileage shall be reimbursed at the same rate as that authorized for members of the Legislature.

(b) (1) The commission shall meet and hold hearings at the places it designates throughout the State.

(2) The commission shall elect a chair from amongst its members. The chair may appoint from among the commission members subcommittees and subcommittee chairs at their discretion.

(c) The commission shall keep records of all proceedings which shall be public and open to inspection, shall adopt a seal, and shall exercise and perform the duties prescribed by this section.

(d) A majority of the members of the commission shall constitute a quorum for the transaction of the business of the commission.

§29-36-4. Purpose of Commission.

The purpose of the West Virginia-Ireland Trade Commission shall be to:

(1) Advance bilateral trade and investment between West Virginia and Ireland;

(2) Initiate joint action on policy issues of mutual interest to West Virginia and Ireland;

(3) Promote business and academic exchanges between West Virginia and Ireland;

(4) Encourage mutual economic support between West Virginia and Ireland;

(5) Encourage mutual investment in the infrastructure of West Virginia and Ireland; and

(6) Address such other issues as determined by the Commission.

§29-36-5. Reports

The commission shall report its findings, results, and recommendations to the Governor, and the Legislature, within one

year of its initial organizational meeting and by February 1st of each succeeding year for the activities of the preceding calendar year. The report shall be in writing and include recommendations as deemed appropriate by the commission to effectuate its purpose, as provided by this section.

§29-36-6. Funds.

The West Virginia-Ireland Trade Commission shall be authorized to raise funds, through direct solicitation or other fundraising events, alone, or with other groups, and accept gifts, grants, and bequests from individuals, corporations, foundations, governmental agencies, and public and private organizations and institutions, to defray the commission's administrative expenses and to carry out its purposes. §29-36-7. Effective Date.

This act shall take effect March 17, 2023.”

And,

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

H. B. 3307 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-36-1, §29-36-2, §29-36-3, §29-36-4, §29-36-5, §29-36-6, and §29-36-7, all relating to establishing the West Virginia-Ireland Trade Commission; establishing findings; providing for the composition of commission, appointment of members and filling of vacancies; providing for compensation of commission members; providing for meetings, selection of a chair, maintenance of records, and a quorum; setting forth purposes of the commission; requiring commission to make certain reports, findings, and recommendations to Governor and Legislature; providing for acceptance of funds by commission; and providing an effective date.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 407**), and there were—yeas 87, nays 10,

absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Dillon, Foggin, Foster, Kirby, Longanacre, Ridenour, Steele and Ward.

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3307) passed.

Delegate Householder moved that the bill take effect March 17, 2023.

On this question, the yeas and nays were taken (**Roll No. 408**), and there were—yeas 89, nays 8, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Butler, Dillon, Foster, Kirby, Longanacre, Steele, Vance and Ward.

Absent and Not Voting: Ellington, Hardy and Howell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3307) takes effect March 17, 2023.

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

A message from the Senate, by

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

H. B. 3428, Relating to the West Virginia Business Ready Sites Program.

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

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

“ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1n. West Virginia Business Ready Sites Program.

(a) The Legislature finds and declares that:

(1) Presently, West Virginia’s available industrial sites lack competitiveness with industrial sites in surrounding states due in part to the lack of presently constructed, adequate utility infrastructure serving sites having industrial potential;

(2) Having construction-ready industrial sites with adequately developed utility infrastructure will increase the state’s potential to attract new industrial projects to the state and advance the state’s economic development efforts;

(3) Incentivizing utilities to construct adequate public utility infrastructure and provide services to sites identified as having industrial potential will increase the likelihood that such sites are developed; and

(4) Responsibly increasing the number of industrial sites with adequate and fully developed utility services is in the public interest of the state.

(b) Definitions. – For the purpose of this section:

~~(1)~~ ‘Industrial Development Agency’ means any individual, incorporated organization, foundation, association, private incorporated entity, or agency to whose members or shareholders no profit inures, which has as its primary function the promotion, encouragement, and development of industrial, commercial, manufacturing, and tourist enterprises or projects in this state;

~~(2)~~ ‘Industrial Development Site’ means a land development containing a minimum of 50 contiguous acres that is identified by the secretary as having potential for industrial development and

that does not currently have adequate public utility services from one or more public utilities regulated by the Public Service Commission;

(3) 'Secretary' means the Secretary of the Department of Commerce; and

(4) 'Utility' means electricity, natural gas, water, or sewage service provided by a public utility regulated by the Public Service Commission.

(c) The secretary shall ~~identify a pilot~~ administer a program known hereafter as 'The West Virginia Business Ready Sites Program' for the purpose of promoting economic development in certain areas of the state by facilitating the construction of utility infrastructure necessary to increase the attractiveness of such sites for industrial development within the state.

(d) An industrial development agency may identify a potential industrial development site and apply to the secretary for approval of the site as an industrial development site, including recommendations as to any required criteria for utility service to the site.

(e) Upon receipt of the application, the secretary shall determine whether the potential industrial development site has the attributes to accomplish the public purposes of this section; and, upon determining that the site has such attributes, the secretary may certify the site as an industrial development site subject to, at his or her discretion, all or some of the identified required criteria for utility service and communicate such certification to the Public Service Commission.

(f) After the Public Service Commission receives the certification described in subsection (e) of this section, public utilities that are able to meet the required criteria, if any, may file with the Public Service Commission an application for a multi-year comprehensive plan for infrastructure development to construct public utility infrastructure and provide services to industrial development sites. Subject to commission review and approval, a

plan may be amended and updated by the public utility as circumstances warrant. The recovery of costs in support of the plans shall be allowed in the manner set forth in this section if the proposed plans have been found to be prudent and useful.

(g) The application submitted to the Public Service Commission under subsection ~~(f)~~ (e) of this section is in lieu of a proceeding, pursuant to §24-2-11 of this code, and shall contain the following:

(1) A description of the infrastructure program, in such detail as the Public Service Commission prescribes, and the projected annual amount in approximate line sizes and feet, general location, type, and projected installation timing of the facilities that the applicant proposes to replace, construct, or improve;

(2) The projected net cost, on an annual basis, of the replacement, construction, or improvements;

(3) The projected start date for the infrastructure program;

(4) The projected numbers of potential new customers that may be served by the infrastructure program and the projected annual demand for public utility services of the customers;

(5) The projected debt for the infrastructure program funding and the projected capital structure for infrastructure program funding;

(6) A proposed full and timely cost recovery mechanism consistent with this section; and

(7) Other information the applicant considers relevant, or the Public Service Commission requires.

(h) Upon filing of the application, the applicant shall publish, in the form the Public Service Commission directs, which form shall include, but not be limited to, the anticipated rates and, if any, rate increase under the proposal, by average percentage and dollar amount for customers within a class of service, as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.*

of this code, the publication area to be each county in which service is provided by the public utility, a notice of the filing of the application, and that the commission shall hold a hearing on the application within 90 days of the notice; unless no substantial opposition to the rate change is received by the commission within one week of the proposed hearing date, in which case the hearing can be waived, and issue a final order within 150 days of the application filing date.

(i) Upon notice and hearing, if required by the Public Service Commission, the commission shall approve the infrastructure program and allow expedited recovery of costs related to the expenditures, as provided in subsection ~~(j)~~ (i) of this section, if the commission finds that the expenditures and the associated rate requirements are just, reasonable, and are not contrary to the public interest. ~~Provided, That the commission may approve infrastructure programs undertaken in connection with a maximum of 10 industrial development sites under this program: Provided, however, That no more than four industrial development sites shall be located in any one congressional district, as such congressional districts are defined in §1-2-3 of this code on the effective date of this section: Provided further, That if the number of congressional districts is reduced to two, that no more than five industrial development sites shall be located in any one congressional district~~

(j) Upon Public Service Commission approval, utilities will be authorized to implement the infrastructure programs and to recover related incremental costs, net of contributions to recovery of return, operation, and maintenance, depreciation and tax expenses directly attributable to the infrastructure program served by the infrastructure program investments, if any, as provided in the following:

(1) An allowance for return shall be calculated by applying a rate of return to the average planned net incremental increase to rate base attributable to the infrastructure program for the coming year, considering the projected amount and timing of expenditures under the infrastructure program plus any expenditures in previous years of the infrastructure program. The rate of return shall be determined by utilizing the rate of return on equity authorized by

the Public Service Commission in the public utility's most recent rate case proceeding or in the case of a settled rate case, a rate of return on equity as determined by the commission, and the projected cost of the public utility's debt during the period of the infrastructure program to determine the weighted cost of capital based upon the public utility's capital structure.

(2) Income taxes applicable to the return allowed on the infrastructure program shall be calculated at the statutory tax rate for inclusion in rates.

(3) Incremental operation and maintenance, depreciation, and property tax expenses directly attributable to the infrastructure program shall be estimated for the upcoming year.

(4) Following Public Service Commission approval of its infrastructure program, a public utility shall place into effect rates that include an increment that recovers the allowance for return, related income taxes at the statutory rate, operation and maintenance, depreciation, and property tax expenses associated with the public utility's estimated infrastructure program investments for the upcoming year, net of contributions to recovery of those incremental costs provided by new customers served by the infrastructure program investments, if any. In each year subsequent to the order approving the infrastructure program and the incremental cost recovery increment, the public utility shall file a petition with the Public Service Commission setting forth a new proposed incremental cost recovery increment based on investments to be made in the subsequent year, plus any under-recovery or minus any over-recovery of actual incremental costs attributable to the infrastructure program investments, for the preceding year.

(5) The facilities installed in an application approved by the Public Service Commission shall be considered used and useful as of the date of construction expenditure for rate recovery.

(k) The public utility may make any accounting accruals necessary to establish a regulatory asset or liability through which

actual incremental costs incurred and costs recovered through the rate mechanism are tracked.

(l) Utilities may defer incremental operation and maintenance expenditures attributable to regulatory and compliance-related requirements introduced after the public utility's last rate case proceeding, and not included in the public utility's current rates. In a future rate case, the Public Service Commission may allow recovery of the deferred costs amortized over a reasonable period of time to be determined by the commission, provided the commission finds that the costs were reasonable and prudently incurred and were not reflected in rates in prior rate cases.

~~(m) The provisions of this section shall expire on December 31, 2024. The expiration of this section shall not affect the full and timely cost recovery of constructing a project that is commenced pursuant to this section prior to such date~~

~~(n)~~(m) The provisions of this section are effective upon passage.”

And,

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

H. B. 3428 – “A Bill to amend and reenact §24-2-1n of the Code of West Virginia, 1931, as amended, relating to the West Virginia Business Ready Sites Program; establishing the West Virginia Business Ready Sites Program as a permanent program; authorizing industrial development agencies to recommend required criteria for utility service to certain industrial development sites; giving Public Service Commission discretion to certify sites based on required criteria for utility service; providing for public utilities that can meet required criteria to apply to Public Service Commission for a certain plan to provide utility services to industrial development sites; waiving public hearing on proposed rate change for utility service to industrial development sites if no substantial opposition is received; eliminating the cap on the number of industrial development sites that may be designated by the Public Service Commission; eliminating certain requirements

that industrial development sites be apportioned geographically amongst West Virginia's congressional districts; and eliminating the sunset provision of the West Virginia Business Ready Sites Program."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 409**), and there were—yeas 83, nays 14, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dean, Dillon, Fast, Foggin, A. Hall, Horst, Longanacre, McGeehan, C. Pritt, Ross, Street, Vance and Ward.

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3428) passed.

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

On this question, the yeas and nays were taken (**Roll No. 410**), and there were—yeas 85, nays 11, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dillon, A. Hall, Horst, Longanacre, McGeehan, C. Pritt, Ross, Street, Vance and Ward.

Absent and Not Voting: Ellington, Garcia, Hardy and Howell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3428) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 11, Relating to Higher Education Consortium for Emerging Energy Technologies.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect January 1, 2024, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 91 – “A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-3-14d and §33-3-33 of said code; and to amend and reenact §33-12C-7 of said code, all relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; defining terms; providing method of allocation and distribution for proceeds of fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; increasing surcharge on fire and casualty policies; providing method of allocation of policy surcharge; requiring the State Fire Marshal provide certain information to the State Treasurer; requiring fire departments eligible to receive policy surcharge funds implement the State Auditor’s West Virginia Checkbook fiscal reporting system; granting rule-making authority to the State Treasurer; increasing tax on surplus lines policies; providing method of allocation of surplus lines policy tax; and clarifying requirements for distribution of funds in the Fire Protection Fund”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 123 – “A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to

creating enhanced second and third offenses for fleeing from an officer on foot or in a vehicle; establishing criminal penalties for the new offenses; and declaring that a conviction for fleeing while under the influence of alcohol or drugs is treated as a driving under the influence for licensure purposes”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 468 – “A Bill to amend and reenact §20-3-3a of the Code of West Virginia, 1931, as amended, relating to continuing the Cabwaylingo State Forest Trail System and developing the existing Hatfield-McCoy trail system solely for the purpose of providing access to state park and state forest recreational facilities”; which was referred to the Committee on Economic Development and Tourism.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 470 – “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-22-803; and to amend and reenact §49-4-604 and §49-4-607 of said code, all relating to adoption and parental rights; establishing a procedure for adopted children to obtain a copy of their original birth certificate and certain personal identifying information regarding their biological parents; establishing a process by which biological parents can consent to providing personal identifying information and medical history to children who have been adopted; allowing biological parents to designate a contact preference; directing the Department of Health and Human Resources to administer records, collect personal identifying information, and charge a reasonable fee for the dissemination of noncertified copies of birth certificates; requiring the Department of Health and Human Resources to track certain

information and report to the Legislative Oversight Commission on Health and Human Resources Accountability; directing the Department of Health and Human Resources to study the operation and consider alternative mechanisms to provide adoptive children with access to the medical records of their biological parents; requiring biological parents whose parental rights are terminated to provide personal identifying information to the Department of Health and Human Services; requiring biological parents whose parental rights are terminated to provide authorization to their child's new legal guardian, a child who obtains the age of majority, or their child's lineal descendants, to access their medical records upon a showing of legitimate diagnostic medical need; establishing a requirement that biological parents who seek to voluntarily relinquish their parental rights to provide authorization and consent to their child's new legal guardian, a child who obtains the age of majority, or their child's lineal descendants to access their medical records upon a showing of legitimate diagnostic medical need; and authorizing the Department of Health and Human Resources to promulgate legislative rules related to these provisions"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 540 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-32, relating to the creation of the misdemeanor offense of willfully urinating or defecating in public; creating an exception for public restrooms; establishing criminal penalties; and clarifying that a person may be charged for the offense by citation”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 552 – “A Bill to amend and reenact §16-2I-1, §16-2I-2, §16-2I-3, and §16-2I-4 of the Code of West Virginia, 1931, as amended; to repeal §16-2I-5 of said code; to amend and reenact §16-2I-6, §16-2I-7, §16-2I-8, and §16-2I-9 of said code; and to amend and reenact §16-2R-9 of said code, all relating to abortion; defining terms; making article applicable to physicians that meet qualifications and are certified under Mifepristone risk evaluation and mitigation strategy; amending information provided during informed consent; removing liability protection for a physician when prescribing a non-Food and Drug Administration approved drug therapy; providing resource to contact if questions rise regarding chemical abortion; requiring the Secretary of the Department of Health and Human Resources to have a 24-hour telephone number to maximize awareness; revising information to be made available; requiring the Bureau of Public Health to publish information on its website; setting forth the required information; providing for administrative discipline against a licensed medical professional for violation of article; and revising severability clauses”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 593 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-7; to amend said code by adding thereto a new section, designated §15-2-5a; and to amend said code by adding thereto a new section, designated §18A-4-5c, all relating to mandating executive branch agencies, State Police, and county boards of education develop and report an area market rate salary adjustment policy; stating findings; directing state agencies, State Police, and county boards of education develop and report an area market rate salary adjustment policy by certain date; establishing mandatory terms to be included in policy; and providing that no private cause of action or right to grievance arises from operation of the policy”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 633 – “A Bill to amend and reenact §62-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-1C-17b of said code; and to amend and reenact §62-2-17 of said code, all relating to failure to appear; requiring compliance with the magistrate court criminal rules; requiring prompt court appearances for persons detained on capiases or warrants for failure to appear; providing procedures for issuing bench warrants and capiases for nonappearance at scheduled court hearings or other proceeding; allowing a grace period after a failure to appear to allow certain defendants to appear except in defined circumstances; providing procedures following execution of bench warrants for nonappearance; and requiring courts to ensure that all inactive warrants and capiases for failure to appear are removed from law-enforcement databases”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 634 – “A Bill to amend and reenact §8-12-18 of the Code of West Virginia, 1931, as amended, relating to increasing the value at which municipal property must be sold through public auction; and allowing for the negotiated sale of real property to adjacent property owners”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 647 – “A Bill to amend and reenact §49-4-601b of the Code of West Virginia, 1931, as amended, relating

to substantiation of abuse and neglect allegations; requiring that when an abuse and neglect allegation is substantiated and a child abuse petition could be filed and the department does not do so, records related to the allegation are sealed after one year, absent a new allegation within that year; excluding persons from having records sealed who have a substantiated case but no court case can be filed; requiring that substantiated cases where the court does not adjudicate abuse and neglect be deemed unsubstantiated; allowing a petition to seal a file after five years for persons found to be creating an abusing parent; exceptions; criteria; directing the department to propose legislative rules to effectuate the statutory directive; and defining terms”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

A Resolution was introduced and referred as follows:

By Delegates Skaff, Young, Pushkin, Ferrell, W. Hall and Shamblin:

H. C. R. 64 – “Requesting the Division of Highways name a portion of I-64 in Kanawha County, including bridges number 20-064-20A779), locally known as I-64 Bridge Eastbound at Institute, carrying I-64 over the I-64 Interchange over on-ramps C and D in Kanawha County, and bridge number 20-064-20A782, locally known as I-64 Bridge Westbound at Institute, carrying I-64 over the I-64 Interchange over on-ramps C and D in Kanawha County, the ‘U. S. Army Air Corps PVT-II Charles A. White Memorial Road’”; to the Committee on Rules.

Special Calendar

Third Reading

S. B. 136, Requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have treatment plan to be eligible for probation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 411**), and there were—yeas 96, nays none,

absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy, Howell and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 136) passed.

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

Com. Sub. for S. B. 208, Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 412**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Foggin.

Absent and Not Voting: Ellington, Hardy, Howell and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 208) passed.

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

Com. Sub. for S. B. 270, Adding exemption to permit requirement for cremation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 413**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Chiarelli, Coop-Gonzalez, A. Hall, Kirby, Ridenour, Thorne and Vance.

Absent and Not Voting: Ellington, Hardy, Howell and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 270) passed.

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

S. B. 276, Awarding service weapon of retiring State Fire Marshal; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 414**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 276) passed.

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

On this question, the yeas and nays were taken (**Roll No. 415**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy and Howell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 276) takes effect from its passage.

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

Com. Sub. for S. B. 300, Relating to law-enforcement training and certification; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 416**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 300) passed.

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

S. B. 481, Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 417**), and there were—yeas 79, nays 17, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Butler, Coop-Gonzalez, Dillon, Foster, A. Hall, Holstein, Horst, Kimble, Kirby, Longanacre, Ridenour, Steele, Street, Thorne, Vance and Ward.

Absent and Not Voting: Dean, Ellington, Hardy and Howell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 481) passed.

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

S. B. 553, Allowing for evaluation of prequalified bidders to be based on best value; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 418**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Ellington, Hardy and Howell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 553) passed.

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

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 419**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Fehrenbacher, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3511) passed.

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

On this question, the yeas and nays were taken (**Roll No. 420**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Fehrenbacher, Hardy and Howell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3511) takes effect from its passage.

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

H. B. 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 421**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Longanacre, Steele and Vance.

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3512) passed.

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

On this question, the yeas and nays were taken (**Roll No. 422**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Longanacre, Steele and Vance.

Absent and Not Voting: Ellington, Hardy, Howell and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3512) takes effect from its passage.

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

H. B. 3513, Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 423**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy, Howell and Shamblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3513) passed.

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

On this question, the yeas and nays were taken (**Roll No. 424**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy, Howell and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3513) takes effect from its passage.

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

H. B. 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health –

West Virginia Birth-to-Three Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 425**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Ellington, Hardy, Howell, Kirby and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3514) passed.

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

On this question, the yeas and nays were taken (**Roll No. 426**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Ellington, Hardy, Howell, Kirby and Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3514) takes effect from its passage.

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

H. B. 3515, Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 427**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy, Howell, Kirby and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3515) passed.

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

On this question, the yeas and nays were taken (**Roll No. 428**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy, Howell and Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3515) takes effect from its passage.

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

H. B. 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 429**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3516) passed.

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

On this question, the yeas and nays were taken (**Roll No. 430**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer, Ellington, Hardy, Howell and Skaff.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3516) takes effect from its passage.

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

H. B. 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 431**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3517) passed.

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

On this question, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Garcia, Hardy and Howell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3517) takes effect from its passage.

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

H. B. 3518, Making a supplementary appropriation to the Department of Agriculture; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 433**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dillon and Longanacre.

Absent and Not Voting: Ellington, Hardy and Howell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3518) passed.

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

On this question, the yeas and nays were taken (**Roll No. 434**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon and Longanacre.

Absent and Not Voting: Ellington, Hardy, Howell and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3518) takes effect from its passage.

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

H. B. 3524, Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 435**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall, Longanacre, Steele and Vance.

Absent and Not Voting: Ellington, Foggin, Hardy, Howell and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3524) passed.

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

On this question, the yeas and nays were taken (**Roll No. 436**), and there were—yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall, Longanacre and Vance.

Absent and Not Voting: Ellington, Foggin, Hardy, Howell and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3524) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 188, Grid Stabilization and Security Act of 2023; on second reading, coming up in regular order, was read a second time.

An amendment sponsored by Delegate Foster was reported by the Clerk.

Delegate Foster stated a point of order regarding the other amendment taking precedence under House Rule 119.

The Speaker ruled the point well taken.

On motion of Delegates Howell and Clark the bill was amended on page 4, section 5B-2N-4, line 8, after the word “certificate” by inserting the words:

“pursuant to §24-2-11c of the West Virginia Code”

And,

On page 8, section 22B-1-7, line 58 after the word “a” by striking the words “a permit issued or denied for the construction and operation of a natural gas electric generation facility” and inserting in lieu thereof the following:

“an appeal of any permit pursuant to §22-5-14 of the code”.

The House then returned to consideration of the previously reported amendment sponsored by Delegate Foster, on page one, by striking everything after the enacting clause and inserting in lieu of the following:

**“CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF
1985.**

**ARTICLE 2N. COAL FIRED GRID STABILIZATION AND
SECURITY ACT OF 2023.**

§5B-2N-1. Short title.

This article shall be known and cited as the ‘Coal Fired Grid Stabilization and Security Act.’

**§5B-2N-2. Identification of suitable sites for coal electric
generation projects.**

(a) The Department of Economic Development is authorized and directed to identify economically viable sites within the state that are:

(1) Located near a convenient and sufficient supply of coal;

(2) Located near consumers to provide a convenient supply of the generated electricity; and,

(3) Likely to create economically viable coal electric generation projects that provide economic benefits to the local and state governmental units and the citizens of the state.

(b) The Department of Economic Development shall use the following criteria in identifying economically viable sites for coal electric generation projects:

(1) Geographic locations near coal deposits in the state capable of supplying and sustaining one or more coal electric generation facilities for the economic life of the facilities;

(2) Geographic locations near existing electric transmission infrastructure capable of transmitting the generated electricity to wholesale markets of electricity by one or more coal electric generation facilities for the economic life of the facilities;

(3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air Quality of the West Virginia Department of Environmental Protection for one or more coal electric generation facilities; and

(4) Geographic locations that can demonstrate that allowable emission increases from one or more coal electric generation facilities, in conjunction with all other applicable emission increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(A) Any national or West Virginia Ambient Air Quality Standard in any air quality control region; or

(B) Any applicable maximum allowable increase over the baseline concentration in any area.

§5B-2N-3. Designation of sites suitable for coal electric generation projects.

(a) Following identification of economically viable sites that may be suitable for coal electric generation projects, the Department of Economic Development shall identify and designate each site it has determined to be suitable for coal electric generation projects as a 'Designated Site,' and shall communicate the Designated Sites to the West Virginia Department of Environmental Protection's Division of Air Quality and the West Virginia Public Service Commission as sites suitable for the construction and operation of coal electric generation projects.

(b) Any application for a siting certificate pursuant to §24-2-11c of the West Virginia Code filed with the Public Service Commission for development of a coal electric generation project at a Designated Site shall be adjudicated, inclusive of public hearings, and a final order issued by the Public Service Commission, within 270 calendar days after the date of the filing of the application, notwithstanding the requirements of any other provision of this code.

(c) Nothing in this section is intended to preclude, modify, or establish new Public Service Commission jurisdiction over:

(1) Any exercise of powers, duties, and obligations pursuant to the West Virginia Public Energy Authority Act; and

(2) The right of end-user consumers of electricity to develop, invest in, or otherwise contract for on-site electric self-generation or cogeneration facilities, including those utilizing coal as a fuel source.

(3) This section does not alter, modify and/or cancel any existing cogeneration tariffs authorized by the Public Service Commission.

(4) This section does not authorize the sale of electricity to end-users in the state.

(d) Where a designated site has been identified, in accordance with §22-5-11b of this code, as a location where additional data would be helpful for modeling or other evaluation of the potential emission of a coal generation project, the Department of Economic Development shall construct such facilities as are necessary to acquire such data.

ARTICLE 20. NATURAL GAS GRID STABILIZATION AND SECURITY ACT OF 2023.

§5B-20-1. Short title.

This article shall be known and cited as the Natural Gas Grid Stabilization and Security Act.

§5B-20-2. Identification of suitable sites for natural gas electric generation projects.

(a) The Secretary of the Department of Economic Development is authorized and directed to identify economically viable sites within the state that are:

(1) Located near a convenient and sufficient supply of natural gas; and

(2) Likely to create economically viable natural gas electric generation projects that provide economic benefits to the local and state governmental units and the citizens of the state.

(b) The Secretary of the Department of Economic Development shall use the following criteria in identifying economically viable sites for natural gas electric generation projects:

(1) Geographic locations near producing natural gas wells, storage fields, or pipelines carrying natural gas produced in the state, capable of supplying and sustaining one or more natural gas electric generation facilities for the economic life of the facilities;

(2) Geographic locations near existing electric transmission infrastructure capable of transmitting the generated electricity to wholesale markets.

(3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air Quality of the West Virginia Department of Environmental Protection for one or more natural gas electric generation facilities; and

(4) Geographic locations that can demonstrate that allowable emission increases from one or more natural gas electric generation facilities, in conjunction with all other applicable emission increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(A) Any national or West Virginia ambient air quality standard in any air quality control region; or

(B) Any applicable maximum allowable increase over the baseline concentration in any area.

§5B-20-3. Designation of sites suitable for natural gas electric generation projects.

(a) Following identification of economically viable sites that may be suitable for natural gas electric generation projects, the Secretary of the Department of Economic Development shall identify and designate each site it has determined to be suitable for natural gas electric generation projects as a ‘designated site’, and shall communicate the designated sites to the West Virginia Department of Environmental Protection's Division of Air Quality and the West Virginia Public Service Commission as sites suitable for the construction and operation of natural gas electric generation projects.

(b) Any application for a siting certificate pursuant to §24-2-11c of the West Virginia Code filed with the Public Service Commission to construct or to construct and operate a natural gas electric generation project at a designated site shall be adjudicated, inclusive of public hearings, and a final order issued by the Public Service Commission, within 270 calendar days after the date of the

filing of the application, notwithstanding the requirements of any other provision of this code.

(c) Nothing in this section is intended to preclude, modify, or establish new Public Service Commission jurisdiction over:

(1) Any exercise of powers, duties, and obligations pursuant to the West Virginia Public Energy Authority Act;

(2) The right of end-user consumers of electricity to develop, invest in, or otherwise contract for on-site electric self-generation or cogeneration facilities, including those utilizing natural gas as a fuel source;

(3) This section does not alter, modify, or cancel any existing cogeneration tariffs authorized by the Public Service Commission; and

(4) This section does not authorize the sale of electricity to end-users in the state.

(d) Where a designated site has been identified, in accordance with §22-5-11c of this code, as a location where additional data would be helpful for modeling or other evaluation of the potential emission of a natural gas electric generation project, the Department of Economic Development shall construct such facilities as are necessary to acquire such data.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-11b. Construction and operating permits required for coal electric generation facilities as stationary sources of air pollutants.

(a) This section applies to coal electric generation facilities as identified and communicated to the Secretary by the West Virginia Department of Economic Development as sites that may be suitable for one or more coal electric generation facilities in accordance with §5B-2N-1 *et seq.* of this code, or as identified by

an applicant for a construction and operating permit for one or more coal electric generation facilities.

(b) The secretary shall take all reasonable steps to expedite consideration of permit applications utilizing sites designated by the Department of Economic Development as a site suitable for use as a coal electric generation facility and communicated to the secretary in accordance with §5B-2N-1 *et seq.* of this code. Such steps shall include:

(1) An initial determination of whether the identified site is in compliance with National Ambient Air Quality Standards and the West Virginia State Implementation Plan, whether emissions from a coal electric generation facility would be likely to interfere with compliance with the same and, if interference is likely, the steps necessary to avoid noncompliance with National Ambient Air Quality Standards and the State Implementation Plan; and

(2) Evaluation of whether there is sufficient data, meteorological and otherwise, that would allow acceptable modeling of the impacts of emissions from a coal electric generation facility, and if not, construction of sampling and measuring devices to acquire such data at the site.

(c) Unless otherwise specifically provided in this article, the secretary shall issue a permit for a coal electric generation facility which is determined to be a major stationary source within a reasonable time, not to exceed 270 calendar days, after the secretary determines that the application is complete. The secretary must determine whether an application is complete within 30 days from the date the permit application is filed with the secretary and communicated to the permit applicant.

§22-5-11c. Construction and operating permits required for natural gas electric generation facilities as stationary sources of air pollutants.

(a) This section applies to natural gas electric generation facilities as identified and communicated to the secretary by the Secretary of the Department of Economic Development as sites

that may be suitable for one or more natural gas electric generation facilities in accordance with §5B-2O-1 et seq. of this code, or as identified by an applicant for a construction and operating permit for one or more natural gas electric generation facilities.

(b) The secretary shall take all reasonable steps to expedite consideration of permit applications utilizing sites designated by the Secretary of the Department of Economic Development as a site suitable for use as a natural gas electric generation facility and communicated to the secretary in accordance with §5B-2O-1 et seq. of this code. Such steps shall include:

(1) An initial determination of whether the identified site is in compliance with national ambient air quality standards and the West Virginia State Implementation Plan; and

(2) Evaluation of whether there is sufficient data, meteorological and otherwise, that would allow acceptable modeling of the impacts of emissions from a natural gas electric generation facility, and if not, inform the Department of Economic Development where to initiate construction of sampling and measuring devices to acquire such data at the site.

(c) Unless otherwise specifically provided in this article, the secretary shall act on a permit for a natural gas electric generation facility which is determined to be a major stationary source within a reasonable time, not to exceed 270 calendar days, and for a minor stationary source, 90 days, after the secretary determines that the application is complete. The secretary must determine whether an application is complete within 30 days from the date the permit application is filed with the secretary and communicated to the permit applicant.

CHAPTER 22B. ENVIRONMENTAL BOARDS.

ARTICLE 1. GENERAL POLICY AND PURPOSE.

§22B-1-7. Appeals to Boards.

(a) The provisions of this section are applicable to all appeals to the boards, with the modifications or exceptions set forth in this section.

(b) Any person authorized by statute to seek review of an order, permit, or official action of the chief of air quality, the chief of water resources, the chief of waste management, the chief of mining and reclamation, the chief of oil and gas, or the secretary may appeal to the air quality board, the environmental quality board, or the surface mine board, as appropriate, in accordance with this section. The person so appealing shall be known as the appellant and the appropriate chief or the secretary shall be known as the appellee.

(c) An appeal filed with a board by a person subject to an order, permit, or official action shall be perfected by filing a notice of appeal with the board within 30 days after the date ~~upon which~~ such order, permit, or official action was received by such person as demonstrated by the date of receipt of registered or certified mail or of personal service. For parties entitled to appeal other than the person subject to such order, permit, or official action, an appeal shall be perfected by filing a notice of appeal with the board within 30 days after the date upon which service was complete. For purposes of this subsection, service is complete upon tendering a copy to the designated agent or to the individual who, based upon reasonable inquiry, appears to be in charge of the facility or activity involved, or to the permittee; or by tendering a copy by registered or certified mail, return receipt requested to the last known address of the person on record with the agency. Service is not incomplete by refusal to accept. Notice of appeal must be filed in a form prescribed by the rule of the board for such purpose. Persons entitled to appeal may also file a notice of appeal related to the failure or refusal of the appropriate chief or the secretary to act within a specified time on an application for a permit; such notice of appeal shall be filed within a reasonable time.

(d) The filing of the notice of appeal does not stay or suspend the effectiveness or execution of the order, permit or official action appealed from, except that the filing of a notice of appeal regarding a notice of intent to suspend, modify, or revoke and reissue a permit, issued pursuant to the provisions of §22-5-5 of this code, does stay the notice of intent from the date of issuance pending a final decision of the board. If it appears to the appropriate chief, the

secretary, or the board that an unjust hardship to the appellant will result from the execution or implementation of a chief's or secretary's order, permit, or official action pending determination of the appeal, the appropriate chief, the secretary, or the board, as the case may be, may grant a stay or suspension of the order, permit or official action and fix its terms: *Provided*, That unjust hardship shall not be grounds for granting a stay or suspension of an order, permit or official action for an order issued pursuant to §22-3-1 *et seq.* of this code. A decision shall be made on any request for a stay within five days of the date of receipt of the request for stay. The notice of appeal shall set forth the terms and conditions of the order, permit, or official action complained of and the grounds upon which the appeal is based. A copy of the notice of appeal shall be filed by the board with the appropriate chief or secretary within seven days after the notice of appeal is filed with the board.

(e) Within 14 days after receipt of a copy of the notice of appeal, the appropriate chief or the secretary ~~as the case may be~~, shall prepare and certify to the board a complete record of the proceedings out of which the appeal arises including all documents and correspondence in the applicable files relating to the matter in question. With the consent of the board and upon such terms and conditions as the board may prescribe, any person affected by the matter pending before the board may, by petition, intervene as a party appellant or appellee. In any appeal brought by a third party, the permittee or regulated entity shall be granted intervenor status as a matter of right where issuance of a permit or permit status is the subject of the appeal. The board shall hear the appeal *de novo*, and evidence may be offered on behalf of the appellant, appellee, and by any intervenors. The board may visit the site of the activity or proposed activity which is the subject of the hearing and take such additional evidence as it considers necessary: *Provided*, That all parties and intervenors are given notice of the visit and are given an opportunity to accompany the board. The appeal hearing shall be held at such location as may be approved by the board including Kanawha County, the county wherein the source, activity, or facility involved is located or such other location as may be agreed to among the parties.

(f) Any such hearing shall be held within 30 days after the date upon which the board received the timely notice of appeal, unless there is a postponement or continuance. The board may postpone or continue any hearing upon its own motion, or upon application of the appellant, the appellee, or any intervenors for good cause shown: Provided, That an appeal of any permit pursuant to §22-5-14 of the code shall be heard by the Air Quality Board within 60 days of the filing of the notice of appeal, unless all parties to the appeal consent to a postponement or continuance, and issue its decision on the appeal as promptly as reasonably possible following the hearing, but in no event later than two months after the completion of the hearing. The chief or the secretary, as appropriate, may be represented by counsel. If so represented, they shall be represented by the Attorney General or with the prior written approval of the Attorney General may employ counsel who shall be a special assistant Attorney General. At any such hearing the appellant and any intervenor may represent themselves or be represented by an attorney-at-law admitted to practice before the Supreme Court of Appeals.

(g) After such hearing and consideration of all the testimony, evidence, and record in the case:

(1) The environmental quality board or the air quality board ~~as the case may be~~ shall make and enter a written order affirming, modifying, or vacating the order, permit, or official action of the chief or secretary, or shall make and enter such order as the chief or secretary should have entered, or shall make and enter an order approving or modifying the terms and conditions of any permit issued; and

(2) The surface mine board shall make and enter a written order affirming the decision appealed ~~from~~ if the board finds that the decision was lawful and reasonable, or if the board finds that the decision was not supported by substantial evidence in the record considered as a whole, it shall make and enter a written order reversing or modifying the decision of the secretary.

(h) In appeals of an order, permit or official action taken pursuant to §22-6-1 *et seq.*, §22-11-1 *et seq.*, §22-12-1 *et seq.*, §22-

13-1 *et seq.*, or §22-15-1 *et seq.* of this code, the environmental quality board established in article three of this chapter, shall take into consideration, in determining its course of action in accordance with subsection (g) of this section, not only the factors which the appropriate chief or the secretary was authorized to consider in issuing an order, in granting or denying a permit, in fixing the terms and conditions of any permit, or in taking other official action, but also the economic feasibility of treating, ~~or~~ controlling, or both, the discharge of solid waste, sewage, industrial wastes, or other wastes involved.

(i) An order of a board shall be accompanied by findings of fact and conclusions of law as specified in §29A-5-3 of this code, and a copy of such order and accompanying findings and conclusions shall be served upon the appellant, and any intervenors, and their attorneys of record, if any, and upon the appellee in person or by registered or certified mail.

(j) The board shall also cause a notice to be served with the copy of such order, which notice shall advise the appellant, the appellee, and any intervenors of their right to judicial review, in accordance with the provisions of this chapter. The order of the board shall be final unless vacated or modified upon judicial review thereof in accordance with the provisions of this chapter.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 437**), and there were—yeas 41, nays 53, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Barnhart, Bridges, Brooks, Butler, Chiarelli, Coop-Gonzalez, Crouse, Dean, Dillon, Fluharty, Foster, Gearheart, A. Hall, Hillenbrand, Holstein, Honaker, Hott, Jennings, Kirby, Kump, Linville, Longanacre, Mallow, Martin, Mazzocchi, McGeehan, Miller, Phillips, C. Pritt, E. Pritt, Reynolds, Ridenour, Ross, Sheedy, Steele, Summers, Toney, Tully, Vance and Ward.

Absent and Not Voting: Ellington, Ferrell, Hardy, Howell, Maynor and Worrell.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 430, Relating to State Treasurer's authority to contract with financial institutions for banking goods and services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 490, Patrol Officer Cassie Marie Johnson Memorial Act; on second reading, coming up in regular order, was read a second time.

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

S. B. 510, Supplementing and amending appropriations to BOE, Department of Education; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 526, Including Alzheimer's disease in existing public health programs; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-8. Inclusion of Alzheimer's disease in existing public health programs.

(a) The Commissioner of the Bureau for Public Health, in partnership with the Bureau for Medical Services and the

Alzheimer's Association, shall, in its existing public health programs and services, educate health care professionals on the importance of early detection and timely diagnosis of cognitive impairment and dementia, use of validated cognitive assessment tools in the delivery of the Medicare Annual Wellness Visit, provision of effective care planning and care management at all stages of dementia, and delivery of counseling and referral.

(b) The Bureau for Public Health, in partnership with the Bureau of Senior Services, shall, in its existing, relevant public health outreach programs, incorporate information to increase understanding and awareness of Alzheimer's disease and other dementias, including information about the early signs of Alzheimer's disease and other dementias that should be discussed with health care professionals and the value of early detection and diagnosis, particularly among persons in diverse communities who are at greater risk of developing dementia.

(c) Any public awareness and/or educational outreach programs shall provide uniform, consistent guidance in nonclinical terms, with an emphasis on cultural relevancy and health literacy.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Health and Human Resources, and adopted, on page 1, after the enacting clause by inserting the following:

**“CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES
INSURANCE ACT.**

§5-16-2. Definitions.

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) ‘Agency’ means the Public Employees Insurance Agency created by this article.

(2) ‘Director’ means the Director of the Public Employees Insurance Agency created by this article.

(3) ‘Employee’ means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term ‘employee’ also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; a county, city, or town in the State; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who

works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an 'employee' during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an 'employee' during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an 'employee' if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the 'employee' for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) ‘Employer’ means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an ‘employer’ within the meaning of this article shall be decided by the director. The term ‘employer’ does not include within its meaning the National Guard.

(5) ‘Finance board’ means the Public Employees Insurance Agency finance board created by this article.

(6) ‘Person’ means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) 'Plan', unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option, or the group life insurance plan offered by the agency.

(8) 'Retired employee' means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a

matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

(9) ‘Device’ means a blood glucose test strip, glucometer, continuous glucose monitor (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include insulin pumps.

(10) ‘Prescription insulin drug’ means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

§5-16-7g. Coverage for prescription insulin drugs.

(a) A policy, plan, or contract that is issued or renewed on or after ~~July 1, 2020~~, January 1, 2023 shall provide coverage for prescription insulin drugs and equipment pursuant to this section.

~~(b) For the purposes of this subdivision, ‘prescription insulin drug’ means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:~~

~~(1) Rapid-acting;~~

- ~~(2) Short-acting;~~
- ~~(3) Intermediate-acting;~~
- ~~(4) Long-acting;~~
- ~~(5) Pre-mixed insulin products;~~
- ~~(6) Pre-mixed insulin/GLP-1 RA products; and~~
- ~~(7) Concentrated human regular insulin.~~

(e) Cost sharing for a 30-day supply of a covered prescription insulin drug ~~shall~~ may not exceed \$100 ~~for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs. \$35 in aggregate, including situations where the covered person is prescribed more than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription.~~ Cost sharing for a 30-day supply of covered device(s) may not exceed \$100 in aggregate, including situations where the covered person is prescribed more than one device, per 30-day supply. Each cost-share maximum is covered regardless of the person's deductible, copayment, coinsurance or any other cost-sharing requirement.

(d) Nothing in this section prevents the agency from reducing a covered person's cost sharing by an amount greater than the amount specified in this subsection.

(e) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent ~~shall~~ may contain a provision (i) authorizing the agency's pharmacy benefits manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in subsection (c) of this section.

(f) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(g) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in §33-53-1(k) of this code.

(h) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

(i) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted."

The bill was then ordered to third reading.

Com. Sub. for S. B. 594, Specifying fairness in cost sharing calculations for certain high deductible health plans; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 605, Requiring state medical examiner to enter into contracts with procurement organization; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Health and Human Resources, on page 1, by line 1, by striking, “the Bureau of Public Health in the Department of Health and Human Resources.”; and inserting in lieu thereof, “the department.”;

And,

On page 1, line 8, after the word, “Examiner” by inserting a period;

And,

On page 1, line 15, by striking the word, “commissioner” and inserting the word, “secretary”;

And,

On page 2, line 32, by striking, “access to the electronic medical records and other” and inserting after the word, “information” “provided by the administrative director of the Office of the Chief Medical Examiner being provided with”;

And,

On page 2, line 35, by striking the words, “of the Department of Health and Human Resources”.

On motion of Delegate Summers, the amendment was amended on page 1, by striking, “On page 2, line 32, by striking, “access to the electronic medical records and other” and inserting after the word, “information” “provided by the administrative director of the Office of the Chief Medical Examiner being provided with”;

And,

By striking subsection (f) in its entirety; and inserting lieu thereof a new subsection (f) to read as follows:

“(f) The Chief Medical Examiner shall cooperate with procurement organizations as defined in §16-19-3 of this code to maximize the opportunity to recover anatomical gifts for the

purpose of transplantation, therapy, research, or education. ~~The Chief Medical Examiner may enter into contracts and agreements with a procurement organization when necessary to~~ To facilitate the efficient and economical recovery of anatomical gifts, the Chief Medical Examiner, including contracts or agreements shall authorize the presence of persons approved or assigned by the procurement organization to perform a specific type of duty or duties at the office of the chief medical examiner Chief Medical Examiner necessary to the timely recovery of anatomical gifts including access to records or information provided by the administrative director of the Office of the Chief Medical Examiner being provided with necessary to identify a potential donor, evaluate donor eligibility, and obtain authorization for recovery, but not including records or information that directly conflict with investigations conducted pursuant to §61-12-8 of this code. ~~This position shall be grant funded and provided at no cost to the state. The procurement organization is liable for all costs related to the placement of persons authorized by this subsection and the Chief Medical Examiner's liability for payment of services is zero."~~

The Committee on Health and Human Resources amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 613, Relating generally to certificates of need; on second reading, coming up in regular order, was reported by the Clerk.

On motion of Delegate Kimble, the bill was postponed one day.

S. B. 679, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Health and Human Resources, and adopted, on page 1, line 8, by striking the period and inserting, "learning pods and micro-schools".

The bill was then ordered to third reading.

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability; on second reading, coming up in regular order, was read a second time.

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

**“ARTICLE 29E. LEGISLATIVE OVERSIGHT
COMMISSION ON HEALTH AND HUMAN
RESOURCES ACCOUNTABILITY.**

§16-29E-3. Definitions.

As used in this article:

(a) ‘Agency’ means those various agencies, authorities, boards, committees, commissions or departments of the Department of Health and Human Resources with authority to promulgate legislative rules pursuant to this chapter that regulate health care providers, practitioners or consumers; or those offering social services programs;

(b) ‘Commission’ means the Legislative Oversight Commission on Health and Human Resources Accountability; and

(c) ‘Department’ means the Department of Health and Human Resources, and any successor agencies.

§16-29E-4. Creation of a Legislative Oversight commission on health and human resources accountability.

(a) There is ~~hereby created~~ continued a joint commission of the Legislature known as the Legislative Oversight Commission on Health and Human Resources Accountability. The commission shall be composed of six members of the Senate appointed by the President of the Senate and six members of the House of Delegates appointed by the Speaker of the House of Delegates. No more than five of the six members appointed by the President of the Senate

and the Speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the President of the Senate and Speaker of the House of Delegates shall be ex officio nonvoting members of the commission and shall designate the cochairpersons. At least one of the Senate appointees and one of the House of Delegates appointees shall be the chairperson of the Committee on Health and Human Resources of the Senate and House of Delegates, respectively, and at least one of the Senate appointees and at least one of the House of Delegates appointees shall be a member of the Committee on Finance of the Senate and House of Delegates, respectively. The members shall serve until their successors shall have been appointed as heretofore provided.

(b) Members of the commission shall receive such compensation and expenses as provided in §4-2A-1 *et seq.* of this code. Such expenses and all other expenses including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel shall be paid from an appropriation to be made expressly for the Legislative Oversight Commission on Health and Human Resources Accountability: *Provided*, That if no such appropriation be made, such expenses shall be paid from the appropriation under ‘Fund No. 0175 for Joint Expenses’ created pursuant to the provisions of said chapter: *Provided, however*, That no expense of any kind payable under the account for joint expenses shall be incurred unless first approved by the Joint Committee on Government and Finance.

(c) The commission shall meet at any time both during sessions of the Legislature and in the interim or as often as may be necessary.

§16-29E-5. Powers and duties of commission.

(a) The powers, duties and responsibilities of the commission shall include the following:

(1) Make a continuing investigation, study and review of the practices, policies and procedures of the health care and social services agencies in this state;

(2) Make a continuing investigation, study and review of all matters related to health and social policy in the state;

(3) Review program development by the various agencies of the Department of Health and Human Resources ~~if those programs impact the physical, emotional or social well-being of the citizens of West Virginia;~~

(4) Conduct studies on health and human services;

~~(A) The amount of funds expended by hospitals and other health care providers of this state for services to persons who are unable to pay for those services and for which they receive no other form of reimbursement;~~

~~(B) The extent to which persons in this state forego needed medical services because of insufficient income and assets to pay for those services;~~

~~(C) The extent to which the state is maximizing available federal programs and moneys in providing health care services to the citizens of this state; and~~

~~(D) The operation of the programs and funds created by §16-29C 1 *et seq.*; and~~

~~(E) The roles of the public, private and private nonprofit sectors in providing health care services to the citizens of this state.~~

(5) Review and study the state Medicaid program in order to determine if the state Medicaid agency, as the payor of last resort, is expending maximum effort to identify alternate private insurance resources for Medicaid beneficiaries;

(6) Review and study the feasibility and financial impact upon the state ~~of assuring~~ by ensuring increased access ~~to~~ for Medicaid beneficiaries to primary health care in the nonhospital setting by requiring enrollment in a primary care clinic program, if available;

(7) Review and study the feasibility and financial impact upon the state of the establishment of different and lesser schedules of

payment for primary health services delivered by a hospital emergency room as compared to the schedule of payments for emergency room services of a true medical emergency nature;

~~(8) Conduct a study on the effects of rural health networks, including effects on the quality, cost and availability of care; and~~
Evaluation of the adequacy and availability of care delivery networks throughout the health care continuum from primary care to postmortem settings; and

~~(9) Meet jointly with the advisory committee created in article thirty five of this chapter to determine methods for coordinating the collection and analysis of health care information within the state, including the development of health information systems that will allow for the electronic transmittal of data and access by the various agencies of government;~~

Make a continuing investigation, study, and review of all matters related to any area of concern that exists within the Department of Health and Human Resources, and any successor agencies, including, but not limited to, financial, administrative, programmatic, and systemic issues.

(b) The commission shall make annual reports to the Legislature regarding the results of all investigations, studies and reviews pursuant to §16-29E-7.

§16-29E-7. Legislative reports.

(a) The commission shall submit annual reports to the Legislature, as required by §16-29E-5, which such reports shall describe and evaluate in a concise manner:

(1) The major activities of the several health and human resources agencies for the fiscal year immediately past, including important policy decisions reached on initiatives undertaken during that year, especially as such activities, decisions and initiatives relate to:

(A) The implementation of health care or social services programs;

(B) Improving the accessibility of appropriate health care in all areas of this state;

(C) Improving the health status of the citizens of this state; and

(D) Coordinating social services programs to reflect a cohesive delivery of transitional services.

(2) Other information considered by the commission to be important, including recommendations for statutory, fiscal or policy reforms and reasons for such recommendations.

(b) The reports may specify in what manner any practice, policy or procedure may or should be modified to satisfy the goal of efficient and effective delivery of health and social services programs and to improve the quality of health and social services available in this state.

(c) The commission may require the Department of Health and Human Resources to submit reports on a routine or as needed basis. These reports shall be submitted to the commission. The submission instructions and format for the reports may be designated by the commission or the Joint Committee on Government and Finance.”

The bill was then ordered to third reading.

H. B. 2904, Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2908, Supplementing and amending appropriations to the Department of Commerce, Division of Forestry; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3557, Making a supplementary appropriation to the Department of Veterans' Assistance; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 51, Requiring impact statement in certain instances of school closing or consolidation,

S. B. 131, Allowing municipal fire marshals to receive service weapon upon retirement,

Com. Sub. for S. B. 160, WV Rail Trails Program,

Com. Sub. for S. B. 205, Relating to registration plates,

S. B. 246, Revising membership of Broadband Enhancement Council,

Com. Sub. for S. B. 439, Establishing design-build program for DEP,

Com. Sub. for S. B. 463, Increasing validity of CDL instruction permit,

And,

S. B. 591, Allowing counties and municipalities to jointly undertake development projects.

At 1:32 p.m., on motion of Delegate Kimble, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2587, To reflect that County Sheriffs will be required to include a breakdown of the distribution of where a citizens taxes will be paid.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2607, Clarify that vehicles with a capacity larger than 10 passengers may be used to transport students provided that no more than 10 passengers may be transported at one time.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2611, To remove certain territorial limitations on a banking institution's ability to offer messenger services or mobile banking facilities.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2638, Authorizing certain agencies of the Department of Administration to promulgate legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2762, Allowing variance in state fire code for certain buildings used solely for emergency equipment storage.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2899, Repealing two sections of code relating to gas utility rates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3210, Relating to the performance of installation of propane gas systems.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 3215, Relating to land use.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 62 – “A Bill to amend and reenact §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code; to amend and reenact §29-22C-3, §29-22C-4, §29-22C-6, and §29-22C-7 of said code; to amend said code by adding thereto a new section, designated §29-22C-7a; to amend and reenact §29-22C-8 of said code; and to amend and reenact §29-22D-15 of said code, all relating to allowing for the establishment of a secondary or satellite location for pari-mutuel wagering on simulcast races, racetrack video lottery terminals, sport wagering kiosks, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack; providing that the original venue must remain in operation; providing that the original venue continue to offer amenities, accommodations, options and services at the same level; providing for a local option election; defining terms; providing Lottery Commission authority to regulate

secondary locations; providing for rulemaking; providing for licensing of secondary or satellite locations; providing for fees to operate secondary or satellite locations; and restricting special elections to begin operating racetracks”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 199 – “A Bill to amend and reenact §5A-1-1 of the West Virginia Code, 1931, as amended; to amend and reenact §5A-3-10 of said code; to amend and reenact §5A-3A-2 of said code; and to repeal §5A-3A-3, §5A-3A-4, §5A-3A-5, and §5A-3A-6 of said code, all relating to requiring purchases of certain commodities and services from state use program partners; revising definitions; updating terms; and requiring Division of Purchasing to purchase certain commodities and services from approved state use program partners if approved state use program partner bid is within five percent of lowest competitor bid”; which was referred to the Committee on Government Organization then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 220 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-12E-12; to amend said code by adding thereto a new article, designated §19-12F-1, §19-12F-2, §19-12F-3, §19-12F-4, §19-12F-5, §19-12F-6, §19-12F-7, §19-12F-8, §19-12F-9, §19-12F-10, and §19-12F-11; to amend and reenact §60-7-12 and §60-7-13 of said code; and to amend said code by adding thereto a new article, designated §60-10-1 and §60-10-2, all relating to further regulation of hemp-derived cannabinoid products and regulation of kratom; creating the Hemp-Derived Cannabinoid Regulation Act; creating the Select Plant-Derived Regulation Act;

making legislative findings and declaring the purpose of the acts; defining terms; requiring permits to manufacture, process, distribute, and sell regulated products; vesting regulatory authority in the Commissioner of Agriculture and the Alcohol Beverage Control Commission; granting legislative and emergency rule-making authority to the Commissioner of Agriculture and the Alcohol Beverage Control Commissioner; establishing an internal effective date from passage for purposes of declaring illegal products contraband and authorizing seizure, forfeiture, and destruction; limiting lawful sale of regulated products to persons 21 years of age or older; requiring age verification for internet sales and sales not made face-to-face; creating a fifteen percent tax on retail sales to be collected by the Tax Commissioner quarterly; establishing distribution of tax revenue; authorizing the Alcohol Beverage Control Commissioner to enforce regulation of the product at the retail level; clarifying Alcohol Beverage Control Commissioners authority over alcohol licensees selling kratom and hemp-derived cannabinoid products; and creating criminal offenses related to regulated products and establishing criminal penalties therefor”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 546 – “A Bill to amend and reenact §60A-2-204, §60A-2-206, §60A-2-210, and §60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to classifying additional drugs and substances to Schedules I, II, IV, and V of the Uniform Controlled Substances Act; removing a substance from Schedule V; modifying language for clarity, that unless expressly exempted by law, all delta tetrahydrocannabinols are included in schedule I; and declaring that the provisions related to tetrahydrocannabinols are inapplicable to products lawfully manufactured, distributed, or possessed pursuant to the Industrial Hemp Development Act and the Medical Cannabis Act”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 581 – “A Bill to amend and reenact §11-1A-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1-4 of said code; to amend and reenact §19-2-5 of said code; to amend and reenact §19-2C-1, §19-2C-6a, and §19-2C-10 of said code; to amend and reenact §19-12-2 of said code; to amend and reenact §19-12D-3, §19-12D-4, and §19-12D-5 of said code; to amend and reenact §19-36-2 of said code; to amend said code by adding thereto a new article, designated §19-39-1, §19-39-2, §19-39-3, §19-39-4, §19-39-5, §19-39-6, §19-39-7, §19-39-8, §19-39-9, §19-39-10, and §19-39-11, all relating generally to the 2023 Farm Bill; defining terms; authorizing transfer of land owned by the Department of Agriculture; increasing membership and composition of board of review; compensating board of review members for services; limiting consecutive terms served by board of review members; removing public hearing requirement relating to noxious weed and rule; restricting ownership of agricultural land holdings; providing exceptions to restrictions on ownership of agricultural land holdings; requiring report to be filed with Commissioner of Agriculture in certain circumstances; providing for enforcement of violations of acquisition, registration, and reporting requirements; permitting Attorney General to initiate action in circuit court; requiring Attorney General to make notice filing; directing circuit court to enter an order under certain circumstances; providing for escheat of property to state; directing sale of escheated property; providing civil penalty for failure to meet filing requirements; and providing effective dates”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 739 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-11C-

1 and §22-11C-2, all relating to the declaration of a moratorium for 60 days on entering into contracts or agreements selling, leasing, letting, or otherwise transferring property rights relating to any deferral, reduction, or limitation on the harvesting of timber for carbon storage, carbon capture, carbon sequestration, or similar agreements, in order to give the Legislature time to deliberate and pass laws as may be determined to be necessary to prevent or mitigate substantial economic harm to West Virginia citizens; creating a 60-day moratorium on any contract or agreement for the deferral, reduction, or limitation on the harvesting of timber or otherwise transferring any property right relating to the harvesting of time, for property situate in this state relating to carbon storage, carbon capture, carbon sequestration, or similar methods of offset for economic or other gain; declaring any contract or agreement entered into in violation of the moratorium null and void; and making legislative findings”; which was referred to the Committee on Energy and Manufacturing.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 740 – “A Bill to amend and reenact §4-2A-2, §4-2A-4, §4-2A-5, §4-2A-6, and §4-2A-7 of the Code of West Virginia, 1931, as amended, all relating to compensation and expense reimbursement for members of the Legislature as recommended by the Citizens Legislative Compensation Commission; modifying the basic compensation to an amount equal to the per capita income in West Virginia; modifying the per diem expense allowance for members of the Legislature when in regular, extended, or extraordinary session; modifying the compensation, per diem expense allowance, and travel reimbursement paid to designated members of the Legislature when not receiving compensation for being in attendance during a regular, extended, or extraordinary session; modifying interim compensation paid to members of the Legislature; authorizing members-elect to the Legislature to receive certain travel reimbursement; and modifying the per diem expense allowance for members of the Legislature

who both commute and do not commute”; to the Committee on Finance.

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

Committee Reports

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

Com. Sub. for S. B. 455, Modifying certain used car restrictions,

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

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

Com. Sub. for S. B. 468, Continuing Cabwaylingo State Forest Trail System,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 121, Creating Student Journalist Press Freedom Protection Act,

And,

Com. Sub. for S. B. 335, Authorizing Department of Homeland Security to promulgate legislative rules,

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

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 12, To place Purple Heart Signs at the entrances to the state,

H. C. R. 33, Lt. Col. Mitchell M. Mickel Memorial Bridge,

H. C. R. 36, Charles A. White Memorial Bridge,

H. C. R. 51, U. S. Army SFC Samuel Evans Miller Memorial Bridge,

H. C. R. 54, U.S. Army PFC Russell Richard Ferguson Memorial Bridge,

H. C. R. 55, U. S. Army SP4 Lee Thomas Memorial Bridge,

H. C. R. 56, George M. Hall Memorial Bridge,

H. C. R. 58, U. S. Army SSG Steven “Todd” Shay Memorial Bridge,

H. C. R. 61, U.S. Army Sgt. John Edsel Edens Memorial Road,

Com. Sub. for S. C. R. 3, Dr. Roland P Sharp Memorial Road,

And,

Com. Sub. for S. C. R. 6, US Army SGT Vincent DiBacco Memorial Bridge.

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 142, Modifying procedures to settle estates of decedents,

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

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

S. B. 609, Obtaining approval for decommissioning or deconstructing of existing power plant,

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

At the respective requests of Delegate Kimble, and by unanimous consent, the bill (S. B. 609) was taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 475, Modifying examinations for disability pensions,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 453, Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2927, Supplementing and amending appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitations - Correctional Units,

H. B. 3065, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission.

H. B. 3067, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit,

H. B. 3108, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority,

S. B. 237, Relating to Public Employees Retirement System and State Teachers Retirement System,

And,

S. B. 458, Setting rate of interest on delinquent retirement contribution submissions,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 450, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board,

And,

S. B. 449, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 268, Relating to PEIA,

And,

Com. Sub. for S. B. 423, Increasing salary for certain state employees,

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

At the respective requests of Delegate Kimble, and by unanimous consent, the bills were (Com. Sub. for S. B. 268 and Com. Sub. for S. B. 423) were taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2911, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2911 – “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Homeland Security, Division of Administrative Services, fund 0546, fiscal year 2023, organization 0623, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

H. B. 2914, Supplementing and amending appropriations to the Governor’s Office - Civil Contingent Fund,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2914 – “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Governor’s Office – Civil Contingent Fund, fund 0105, fiscal year 2023, organization 0100 by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

H. B. 3040, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 3040 – “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated

surplus balance in the State Fund, General Revenue, to the Department of Administration, Office of the Secretary, fund 0186, fiscal year 2023, organization 0201, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

And,

H. B. 3074, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 3074 – “A Bill supplementing and amending Chapter 11, Acts of the Legislature, Regular Session, 2022, known as the budget bill, as amended, in Title II from the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Transportation, Division of Multimodal Transportation Facilities, fund 0580, fiscal year 2023, organization 0810, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

With the recommendation that the committee substitutes each do pass.

Leaves of Absence

At the request of Delegate Kimble, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington, Hardy and Howell.

Miscellaneous Business

At 6:37 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 3, 2023.

Friday, March 3, 2023

FIFTY-SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, March 2, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Jeffries announced that Com. Sub. for S. B. 160, on Second Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 121, S. B. 533, Com. Sub. for S. B. 539 and Com. Sub. for S. B. 656, on First Reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 267, Updating law regarding prior authorizations,

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

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county,

And,

Com. Sub. for S. B. 476, Exempting managed care contracts from purchasing requirements,

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

Messages from the Executive

and Other Communications

The Clerk announced that the following bills had been presented to the Governor: Com. Sub. for H. B. 2062 and H. B. 3340 on March 2, 2023; and Com. Sub. for H. B. 3042 on March 3, 2023.

Messages from the Senate

A message from the Senate, by

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

H. B. 2310, Provide the Division of Motor Vehicles authority to develop an “Antique Fleet” program so that multiple antique motor vehicles may utilize a single registration plate.

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

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

**“CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE AND
ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF
REGISTRATION; ISSUANCE OF CERTIFICATES OF
TITLE.**

**§17A-3-2. Every motor vehicle, etc., subject to registration and
certificate of title provisions; exceptions.**

(a) Every motor vehicle, trailer, semitrailer, pole trailer, and recreational vehicle when driven or moved upon a highway is subject to the registration and certificate of title provisions of this chapter except:

(1) Any vehicle driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lienholders, or nonresidents or under a temporary registration permit issued by the division as authorized under this chapter;

(2) Any implement of husbandry upon which is securely attached a machine for spraying fruit trees and plants of the owner or lessee or for any other implement of husbandry which is used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner of the implement and which is not operated on or over any public highway of this state for any other purpose other than for the purpose of operating it across a highway or along a highway other than an expressway as designated by the Commissioner of the Division of Highways from one point of the owner's land to another part of the owner's land, irrespective of whether or not the tracts adjoin: *Provided*, That the distance between the points may not exceed 35 miles, or for the purpose of taking it or other fixtures attached to the implement, to and from a repair shop for repairs. The exemption in this subdivision from registration and license requirements also applies to any vehicle described in this subsection or to any farm trailer owned by the owner or lessee of the farm on which the trailer is used, when the trailer is used by the owner of the trailer for the purpose of moving

farm produce and livestock from the farm along a public highway for a distance not to exceed 35 miles to a storage house or packing plant, when the use is a seasonal operation:

(A) The exemptions contained in this section also apply to farm machinery, tractors, and mini-trucks: *Provided*, That the machinery, tractors, and mini-trucks may use the highways in going from one tract of land to another tract of land regardless of whether the land is owned by the same or different persons. For the purposes of this section, "mini-truck" means a foreign-manufactured import or domestic-manufactured vehicle designed primarily for off-road use and powered by an engine ranging in size from 550cc to 660cc and weighing approximately 1,800 pounds;

(B) Any vehicle exempted under this subsection from the requirements of annual registration certificate and license plates and fees for the registration certificate and license plate may not use the highways between sunset and sunrise unless the vehicle is classified as a Class A motor vehicle with a farm-use exemption under the provisions of §17A-10-1 of this code and has a valid and current inspection sticker as required by the provisions of §17C-16-1 *et seq.* of this code and is traveling from one tract of land to another over a distance of 35 miles or less;

(C) Any vehicle exempted under this section from the requirements of annual registration certificate and license plates may use the highways as provided in this section whether the exempt vehicle is self-propelled, towed by another exempt vehicle or towed by another vehicle required to be registered;

(D) Any vehicle used as an implement of husbandry exempt under this section shall have the words "farm use" affixed to both sides of the implement in 10-inch letters. Any vehicle which would be subject to registration as a Class A or B vehicle if not exempted by this section shall display a farm-use exemption certificate on the lower driver's side of the windshield:

(i) The farm-use exemption certificate shall be provided by the commissioner and shall be issued annually by the assessor of the applicant's county of residence. The assessor shall issue a farm-use

exemption certificate to the applicant upon his or her determination pursuant to an examination of the property books or documentation provided by the applicant that the vehicle has been properly assessed as Class I personal property. Nothing in this section or any rule promulgated under the authority of chapter 29A of this code may be construed to require any applicant for a renewal of a farm use exemption certificate to appear personally before any assessor. The assessor shall charge a fee of \$2 for each certificate, which shall be retained by the assessor;

(ii) A farm-use exemption certificate shall not exempt the applicant from maintaining the security required by §17D-1-1 *et seq.* of this code on any vehicle being operated on the roads or highways of this state;

(iii) No person charged with the offense of operating a vehicle without a farm-use exemption certificate, if required under this section, may be convicted of the offense if he or she produces in court, or in the office of the arresting officer, a valid farm-use exemption certificate for the vehicle in question within five days;

(3) Any vehicle which is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(4) Any vehicle of a type subject to registration which is owned by the government of the United States;

(5) Any wrecked or disabled vehicle towed by a licensed wrecker or dealer on the public highways of this state;

(6) The following recreational vehicles are exempt from the requirements of annual registration, license plates and fees, unless otherwise specified by law, but are subject to the certificate of title provisions of this chapter regardless of highway use: Motorboats, all-terrain vehicles, utility terrain vehicles, and snowmobiles; and

(7) Any special mobile equipment as defined in §17A-1-1(r) of this code.

(b) Notwithstanding the provisions of subsection (a) of this section:

(1) Mobile homes or manufactured homes are exempt from the requirements of annual registration, license plates and fees;

(2) House trailers may be registered and licensed; and

(3) Factory-built homes are subject to the certificate of title provisions of this chapter.

(c) The division shall title and register low-speed vehicles if the manufacturer's certificate of origin clearly identifies the vehicle as a low-speed vehicle. The division may not title or register homemade low-speed vehicles or retrofitted golf carts and such vehicles do not qualify as low-speed vehicles in this state. In addition to all other motor vehicle laws and regulations, except as specifically exempted below, low-speed vehicles are subject to the following restrictions and requirements:

(1) Low-speed vehicles shall only be operated on private roads and on public roads and streets within the corporate limits of a municipality where the speed limit is not more than 25 miles per hour;

(2) Notwithstanding any provisions in this code to the contrary, low-speed vehicles shall meet the requirements of 49 C.F.R. §571.500 (2003);

(3) In lieu of ~~annual inspection~~ periodic inspection, the owner of a low-speed vehicle shall, upon initial application for registration and each renewal thereafter, certify under penalty of false swearing, that all lights, brakes, tires, and seat belts are in good working condition; and

(4) Any person operating a low-speed vehicle must hold a valid driver's license, not an instruction permit.

§17A-3-2a. Registration of nonresident vehicles.

(a) A nonresident vehicle is not required to be registered pursuant to §17A-3-2 of this code: *Provided*, That a nonresident

vehicle may be registered in this state and be issued a West Virginia registration plate upon payment of all applicable fees to the division. For purposes of this subsection, the receipt and verification requirements of §17A-3-3a of this code do not apply.

(b) For purposes of this section, “nonresident vehicle” means a vehicle titled in this state under the provisions of §17A-4-11 of this code, which is not intended to spend a majority of service time on West Virginia roads, owned by a business whose principal place of business is not in this state, that is not a common carrier, and that maintains a local, national, or international fleet of vehicles.

(c) Nothing in this section subjects a nonresident vehicle to the inspection requirement set forth in §17A-16-4 of this code. A nonresident vehicle is not domiciled in any county in this state, and nothing in this section requires the imposition of personal property taxes within this state pursuant to §11-5-1 *et seq.* of this code.

(d) The division may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code and may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to accomplish the provisions of this section.

ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR DISMANTLERS; SPECIAL PLATES; TEMPORARY PLATES OR MARKERS.

§17A-6-10d. Special plates for nonprofit corporations engaged in research and development.

(a) Notwithstanding any of the other provisions of this article, a nonprofit corporation engaged in research and development using motor vehicles pursuant to §18B-12-1 *et seq.* of this code and affiliated with institutions of higher education may operate or move a vehicle, either owned or in the possession of the nonprofit corporation upon the highways of this state for purposes of transporting or testing that vehicle without first registering or titling the vehicle and displaying, in a manner prescribed by the commissioner, a special plate issued to the nonprofit corporation as provided in this section.

(b) Any nonprofit corporation as prescribed in subsection (a) of this section may make application to the commissioner upon a form prescribed by him or her for a certificate containing a general distinguishing number and for a special plate or plates. The applicant shall verify that it is a Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, nonprofit corporation and submit sufficient information, as may be required by the commissioner, that it is engaged in research and development of vehicles, special fuels, or equipment for motor vehicles.

(c) The commissioner, upon approving an application, may issue without charge to the applicant, a certificate containing the nonprofit corporation's name and address and its general distinguishing number. The commissioner may also issue without charge, a special plate or plates, as determined by the commissioner as necessary, that must be displayed on the vehicle. Each plate shall also contain a number or symbol distinguishing it from other plates bearing the same general distinguishing number.

(d) The nonprofit corporation that is issued a special plate pursuant to this section must keep written records as required by the commissioner concerning the operation of the vehicle. The records shall be open to inspection by any law-enforcement officer or division employee.

(e) This section does not apply to the use of any other vehicles owned, leased, or operated by the nonprofit corporation.

(f) A nonprofit corporation that has been issued a special plate is not required to comply with the bond or dealer recovery fund otherwise required under this article for that vehicle.

(g) A nonprofit corporation that has been issued a special plate shall furnish information, satisfactory to the commissioner, that the vehicle is covered by an appropriate insurance policy or proof of financial responsibility in amounts not less than the requirements of §17D-4-2 of this code.

(h) Vehicles operated by a nonprofit corporation pursuant to this section are exempt from the ~~annual~~ periodic motor vehicle

inspection and the displaying of the certificate of inspection otherwise required by §17C-16-1 *et seq.* of this code. However, a vehicle that has been issued a special plate pursuant to this section must be safe and may not, in any manner, endanger the driver, other vehicle occupants, other motorists, pedestrians, or the general public.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-3a. Special registration of antique motor vehicles and motorcycles; definition, registration, and use of classic motor vehicles and classic motorcycles; customized antique plates.

(a) The annual registration fee for any antique motor vehicle or motorcycle as defined in this section is \$2. As used in this section:

‘Antique motor vehicle’ means any motor vehicle regardless of weight which is more than 25 years old and is owned solely as a collector’s item.

‘Antique military vehicle’ means an antique motor vehicle, regardless of the vehicle’s size or weight, that was manufactured for use in any country’s military forces, and that is maintained to represent its military design and markings accurately, including a trailer meeting the same requirements, but not including a vehicle or trailer currently in service.

‘Antique motorcycle’ means any motorcycle which is more than 25 years old and is owned solely as a collector’s item.

‘Classic motor vehicle’ means a motor vehicle which is more than 25 years old and is registered pursuant to §17A-10-3 of this code and is used for general transportation.

‘Classic motorcycle’ means a motorcycle which is more than 25 years old and is registered pursuant to §17A-10-3 of this code and is used for general transportation.

(b) Except as otherwise provided in this section, antique motor vehicles or motorcycles may not be used for general transportation but may only be used for:

(1) Participation in club activities, exhibits, tours, parades, and similar events;

(2) The purpose of testing their operation, obtaining repairs or maintenance, and transportation to and from events as described in subdivision (1) of this subsection; and

(3) Recreational purposes ~~over weekends, beginning on Friday at 12:00 p.m., and ending on the following Monday at 12:00 p.m., and on holidays:~~ *Provided*, That a classic motor vehicle or a classic motorcycle as defined in this section may be registered under the applicable class at the applicable registration fee set forth in §17A-10-3 of this code and may be used for general transportation.

(c) A West Virginia motor vehicle or motorcycle displaying license plates of the same year of issue as the model year of the antique motor vehicle or motorcycle, as authorized in this section, may be used for general transportation purposes if the following conditions are met:

(1) The license plate's physical condition has been inspected and approved by the Division of Motor Vehicles;

(2) The license plate is registered to the specific motor vehicle or motorcycle by the Division of Motor Vehicles;

(3) The owner of the motor vehicle or motorcycle annually registers the motor vehicle or motorcycle and pays an annual registration fee for the motor vehicle or motorcycle equal to that charged to obtain regular state license plates;

(4) The motor vehicle or motorcycle passes ~~an annual safety inspection~~ a periodic safety inspection; and

(5) The motor vehicle or motorcycle displays a sticker attached to the license plate, issued by the division, indicating that the motor vehicle or motorcycle may be used for general transportation.

(d) If more than one request is made for license plates having the same number, the division shall accept only the first application.

(e) The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary or convenient for the carrying out of the provisions of this section.

(f) Upon appropriate application, together with a special annual fee of \$40, which is in addition to all other fees required by this chapter, there shall be issued to the owner of an antique motor vehicle a special registration plate for an antique motor vehicle titled in the name of the qualified applicant, bearing a combination of letters or numbers requested by that applicant, subject to the approval by the commissioner, and with the maximum number of letters or numbers to be determined by the commissioner.

(g) Upon proper application pursuant to subsection (f) of this section, the commissioner shall approve an alternative registration insignia for an antique military vehicle that is compatible with the vehicle's original markings, including, but not limited to, the display of the vehicle's unique military identification number not to exceed eight characters on the bumper of the vehicle: *Provided*, That nothing in this section exempts the operator of an antique military vehicle from the requirements set forth in §17A-3-13 of this code. Pursuant to this subsection, an antique military vehicle is exempt from the requirement to display a registration plate if the exemption is necessary to maintain the vehicle's accurate military marking.

(h) The commissioner is hereby authorized to develop an antique fleet plate program to enable an owner of five or more antique motor vehicles to use a single registration plate on multiple antique motor vehicles. The owner is required to register with the Division of Motor Vehicles every antique motor vehicle upon which the plate will be displayed. The annual registration fee for an antique fleet plate is \$2 a year per registered antique motor vehicle. The antique fleet plate is valid for one year and must be renewed annually. The antique fleet plate may be used on a newly

acquired antique motor vehicle prior to titling: *Provided*, That the owner completes an application for a 30-day temporary digital registration card in the format established by the commissioner and displays such card upon request when operating the vehicle prior to titling and regular registration. The fee for a 30-day temporary digital registration card is \$10, and the commissioner is authorized to charge a convenience fee for electronic submission of the application.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 16. INSPECTION OF VEHICLES.

§17C-16-4. Superintendent of the West Virginia State Police to require periodical inspection; acceptance of certificate of inspection from another state; suspension of registration of unsafe vehicles.

(a) The Superintendent of the West Virginia State Police shall ~~once each year~~ require that every motor vehicle, trailer, semitrailer, and pole trailer registered in this state be inspected once every two years and that an official certificate of inspection and approval be obtained for each vehicle; *Provided*, That the amendments made to this subsection during the 2023 regular session of the Legislature shall become effective on January 1, 2024.

The inspections shall be made and the certificates obtained with respect to the mechanism, brakes, and equipment of every vehicle designated by the superintendent.

The superintendent may make necessary rules for the administration and enforcement of this section and may designate any period or periods during which owners of any vehicles, subject to this section, shall display upon the vehicles certificates of inspection and approval or shall produce the certificates upon demand of any officer or employee of the State Police designated by the superintendent or any police or peace officer when authorized by the superintendent.

(b) The superintendent may authorize the acceptance in this state of a certificate of inspection and approval issued in another state having an inspection law similar to this chapter and may extend the time within which the resident owner of a vehicle which was not in this state during the time an inspection was required must obtain a certificate.

(c) At the request of the superintendent, the Commissioner of the Division of Motor Vehicles may suspend the registration of any vehicle which the superintendent determines is in such an unsafe condition that it constitutes a menace to safety, or which after notice and demand is not equipped as required in this chapter, or for which the vehicle's owner has not obtained the required certificate.

(d) If requested by the owner of the vehicle, the superintendent shall also cause to be inspected a Class A farm use motor vehicle exempt from annual registration certificate and licensing as provided in §17A-3-2 of this code. If the Class A farm use motor vehicle passes the inspection, the superintendent shall cause a certificate of inspection to be issued for that vehicle.

§17C-16-5. Permit for official inspection stations; fees for and certificate of inspection.

(a) The Superintendent of the State Police is responsible for the inspection as provided in this article and shall prescribe requirements and qualifications for official inspection stations. He or she shall select and designate the stations and shall issue permits for official inspection stations and furnish instructions and all necessary forms for the inspection of vehicles as required in this article and the issuance of official certificates of inspection and approval. The certificate of inspection shall be a paper sticker or decal to be affixed to the windshield of a motor vehicle, shall be serially numbered, and shall properly identify the official inspection station which issued it. A charge of \$3 \$6 per sticker shall be charged by the State Police to the inspection station, and the funds received shall be deposited into the State Treasury and credited to the account of the State Police for application in the administration and enforcement of the provisions of this article and

for the purchase of vehicles, equipment for vehicles, and maintenance of vehicles. The superintendent may exchange stickers or make refunds to official inspection stations for stickers on hand when permits are revoked or when, for any reason, the stickers become obsolete. The amendments made to this subsection during the 2023 regular session of the Legislature shall become effective on January 1, 2024.

(b) A person shall apply for a permit upon an official form prescribed by the superintendent and the superintendent shall grant permits only when the superintendent is satisfied that the station is properly equipped, ~~and~~ has competent personnel to make the inspections and adjustments, and that the inspections and adjustments will be properly conducted. The superintendent, before issuing a permit, may require the applicant to file a bond with surety approved by the superintendent, conditioned that such applicant, as a station operator, will make compensation for any damage to a vehicle during an inspection or adjustment due to negligence on the part of the station operator or employees thereof.

(c) The superintendent shall properly supervise and cause inspections to be made of the stations. Upon finding that a station is not properly equipped or conducted, the superintendent may, upon a first violation, suspend the permit for a period of up to one year. Upon a second or subsequent finding that a station is not properly equipped or conducted, the superintendent shall permanently revoke and require the surrender of the permit. The superintendent may reinstate the permit of any person whose permit was permanently revoked prior to the effective date of this section upon a first finding that a station was not properly equipped or conducted, upon application, at any time after the expiration of six months from the time of revocation and shall reinstate the permit, upon application, after the expiration of one year. He or she shall maintain and post at his or her office and at any other places as he or she may select lists of all stations holding permits and of those whose permits have been suspended or revoked.

§17C-16-6. Assignment, transfer, and posting of official inspection station permit; issuance and record of certificate of inspection; inspection fee.

(a) No permit for an official inspection station shall be assigned or transferred or used at any location other than designated in the permit and every permit shall be posted in a conspicuous place at the station location designated in the permit.

(b) The person operating the station shall issue a certificate of inspection and approval, upon an official form, to the owner of a vehicle upon inspecting the vehicle and determining that its equipment required under this article is in good condition and proper adjustment, but otherwise no certificate shall be issued, except one issued pursuant to section two of this article. When required by the superintendent, a record and report shall be made of every inspection and every certificate issued.

(c) A fee of not more than ~~\$14~~ \$19 may be charged for an inspection and any necessary headlight adjustment to proper focus, not including any replacement parts required, and the issuance of the certificate, but the imposition of the charge is not mandatory. The amendments made to this subsection during the 2023 regular session of the Legislature shall become effective on January 1, 2024.”

And,

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

H. B. 2310 – “A Bill to amend and reenact §17A-3-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17A-3-2a; to amend and reenact §17A-6-10d of said code; to amend and reenact §17A-10-3a of said code; and to amend and reenact §17C-16-4, §17C-16-5, and §17C-16-6 of said code, all relating to motor vehicles; changing the interval of annual mandatory vehicle inspections to inspections every two years; doubling the charge for inspection stickers; increasing the maximum fee for an inspection to \$19 to account for inflation; providing an internal effective date; defining a term; exempting nonresident vehicles from registration requirement; allowing for optional nonresident vehicle registration and issuance of registration plates if applicable fees are paid; clarifying that nonresident vehicles are not subject to personal

property taxes or vehicle inspection requirement; authorizing rulemaking by the Division of Motor Vehicles concerning nonresident vehicles; modifying definition and permissible uses of antique motor vehicles; authorizing the Division of Motor Vehicles to create an antique fleet plate program for owners with five or more antique motor vehicles; specifying requirements, validity period of registration, annual registration fee, and fee for temporary digital registration card for antique fleet plate program; and authorizing convenience fee for electronic submission of applications for temporary digital registration cards.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 438**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Howell, Linville, Lucas and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2310) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3317, Relating to removing specific continuing education requirements.

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

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

**“ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO
ALL STATE BOARDS OF EXAMINATION OR
REGISTRATION REFERRED TO IN CHAPTER.**

§30-1-7a. Continuing education.

(a) A board referred to in this chapter shall establish continuing education requirements as a prerequisite to license renewal. A board shall develop continuing education criteria appropriate to its discipline, which shall include, but not be limited to, course content, course approval, hours required, and reporting periods.

(b) Notwithstanding any other provision of this code, ~~or the provision of a legislative rule to the contrary~~ each ~~a~~ a person issued ~~a~~ an initial license to practice medicine and surgery, a license to practice podiatry or licensed as a physician assistant by the West Virginia Board of Medicine; ~~each~~ a person issued a license to practice dentistry by the West Virginia Board of Dental Examiners; ~~each~~ a person issued a license to practice optometry by the West Virginia Board of Optometry, ~~each~~ a person licensed as a pharmacist by the West Virginia Board of Pharmacy; ~~each~~ a person licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses; ~~each~~ a person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses; and ~~each~~ a person licensed to practice medicine and surgery as an osteopathic physician and surgeon, or licensed or certified as an osteopathic as physician assistant by the West Virginia Board of Osteopathy shall complete drug diversion training, best-practice prescribing of controlled substances training, and training on prescribing and ~~administration of administering~~ administering an opioid antagonist ~~and other relevant trainings as promulgated by the appropriate licensing board, as the trainings are established by his or her respective licensing board,~~ if that person prescribes, administers, or dispenses a controlled substance as that term is defined in §60A-1-101 of this code.

~~(1) Notwithstanding any other provision of this code or the provision of any legislative rule to the contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners, the West Virginia Board of Optometry, the West Virginia Board of Pharmacy, the West Virginia Board of Examiners for Registered Professional Nurses, the West Virginia State Board of Examiners for Licensed Practical Nurses and the West Virginia Board of Osteopathy shall establish continuing education requirements and criteria appropriate to their respective discipline on the subject of drug diversion training, best practice prescribing of controlled substances training and prescribing and administration of an opioid antagonist training for each person issued a license or certificate by their respective board who prescribes, administers or dispenses a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty a of this code, and shall develop a certification form pursuant to subdivision (b)(2) of this section.~~

~~(2) Each A person who receives his or her initial license or certificate from any of the boards set forth in subsection (b) of this section shall complete the continuing education requirements set forth in subsection (b) of this section within one year of receiving his or her initial license from that board. and each person licensed or certified by any of the boards set forth in subsection (b) of this section who has held his or her license or certificate for longer than one year shall complete the continuing education requirements set forth in subsection (b) of this section as a prerequisite to each license renewal: *Provided*, That a person subject to subsection (b) of this section may waive the continuing education requirements for license renewal set forth in subsection (b) of this section if he or she completes and submits to his or her licensing board a certification form developed by his or her licensing board attesting that he or she has not prescribed, administered or dispensed a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty a of this code, during the entire applicable reporting period.~~

~~(c) Notwithstanding any other provision of this code or the provision of any legislative rule to the contrary, each person licensed to practice registered professional nursing or licensed as~~

~~an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses, each person licensed to practice psychology by the Board of Examiners of Psychologists, each person licensed to practice social work by the West Virginia Board of Social Work and each person licensed to practice professional counseling by the West Virginia Board of Examiners in Counseling shall complete two hours of continuing education for each reporting period on mental health conditions common to veterans and family members of veterans, as the continuing education is established by his or her respective licensing board. In cooperation with the Secretary of the Department of Veterans' Assistance, the continuing education shall include training on inquiring about whether the patients are veterans or family members of veterans, and screening for conditions such as post traumatic stress disorder, risk of suicide, depression and grief and prevention of suicide. The two hours shall be part of the total hours of continuing education required by each board and not two additional hours"~~

And,

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

Com. Sub. for H. B. 3317 – “A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to continuing education requirements; establishing requirements for initial license; establishing timeframe for completion of continuing education training for initial license; removing continuing education requirements; removing associated continuing education completion timeframes; and removal of waiver process.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 439**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Riley.

Absent and Not Voting: Bridges, Ferrell, Howell, Linville, Lucas and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3317) passed.

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

On this question, the yeas and nays were taken (**Roll No. 440**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Howell, Linville, Lucas and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3317) takes effect from its passage.

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

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order as unfinished business, were, in the absence of objection, considered en bloc, and adopted:

Com. Sub. for S. C. R. 3, Dr. Roland P Sharp Memorial Road,

Com. Sub. for S. C. R. 6, US Army SGT Vincent DiBacco Memorial Bridge,

H. C. R. 12, Requesting that the Division of Highways place roadway welcome signs containing the phrase “West Virginia a Purple Heart State”,

H. C. R. 33, Lt. Col. Mitchell M. Mickel Memorial Bridge,

H. C. R. 36, U. S. Army Pvt. Charles A. White, Sr. Memorial Bridge,

H. C. R. 51, U. S. Army SFC Samuel Evans Miller Memorial Bridge,

H. C. R. 54, U.S. Army PFC Russell Richard Ferguson Memorial Bridge,

H. C. R. 55, Chief Lee Thomas Memorial Bridge,

H. C. R. 56, George M. Hall Memorial Bridge,

H. C. R. 58, U. S. Army SSG Steven “Todd” Shay Memorial Bridge,

And,

H. C. R. 61, U.S. Army Sgt. John Edsel Edens Memorial Road.

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

Third Reading

Com. Sub. for S. B. 188, Grid Stabilization and Security Act of 2023; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 441**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon, Hansen, Pushkin, Walker and Young.

Absent and Not Voting: Bridges, Ferrell, Howell, Linville and Lucas.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 188) passed.

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

Com. Sub. for S. B. 430, Relating to State Treasurer's authority to contract with financial institutions for banking goods and services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 442**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Clark, Ferrell, Foggin, Heckert, Howell, Linville and Lucas.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 430) passed.

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

Com. Sub. for S. B. 490, Patrol Officer Cassie Marie Johnson Memorial Act; on third reading, coming up in regular order, with amendments pending and the right to amend, was read a third time.

An amendment recommended by the Committee on the Judiciary was reported by the Clerk.

Whereupon,

Delegate Capito asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegates Capito and Kirby, the bill was amended on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-17a. Obstructing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel causing death; penalty.

(a) Notwithstanding any provision of this code to the contrary, any person who knowingly, willfully, and forcibly obstructs or hinders a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel lawfully acting in his or her official capacity and thereby proximately causes the death of a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel so acting, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for a term of 15 years to life.

(b) For purposes of this section, “forcibly” means actions which involve the use of physical force.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 443)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Hornbuckle, Howell, Linville and Lucas.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 490) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 490 – “A Bill to amend the Code of West Virginia 1931, as amended, by adding thereto a new section, designated §61-5-17a, relating to creating the offense of obstructing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel causing death; requiring proof of knowingly, willfully and forcibly obstructing or hindering a law enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel engaged in their official capacity and thereby proximately causing the death of the person acting in his or her official capacity; establishing the criminal penalty therefor as life imprisonment with parole eligibility after service of 15 years; and providing a definition.

PREAMBLE: THIS LAW IS DESIGNATED AND MAY BE REFERRED TO AS THE PATROL OFFICER CASSIE MARIE JOHNSON MEMORIAL ACT.”

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

S. B. 510, Supplementing and amending appropriations to BOE, Department of Education; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 444**), and there were—yeas 87, nays 5, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Foster, Longanacre, Ridenour and Vance.

Absent and Not Voting: Bridges, Clark, Ferrell, Hornbuckle, Howell, Linville, Lucas and Rowe.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 510) passed.

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

On this question, the yeas and nays were taken (**Roll No. 445**), and there were—yeas 89, nays 2, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Longanacre and Vance.

Absent and Not Voting: Bridges, Clark, Ferrell, Hornbuckle, Howell, Kirby, Linville, Lucas and Rowe.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 510) takes effect from its passage.

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

Com. Sub. for S. B. 526, Including Alzheimer's disease in existing public health programs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 446**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Hornbuckle, Howell, Kirby, Linville, Lucas and Rowe.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 526) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 526 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-8, relating to Alzheimer's disease; providing authority to the Commissioner for the Bureau for Public Health; requiring the Bureau for Public Health to partner with other entities; providing information concerning Alzheimer's disease; and providing information concerning other dementias.”

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

Com. Sub. for S. B. 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 447**), and there were—yeas 85, nays 12, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Dillon, Foster, Horst, Kimble, Kirby, Kump, Longanacre, C. Pritt, Ridenour and Ward.

Absent and Not Voting: Ferrell, A. Hall and Howell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 577) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 577 - “A Bill to amend and reenact §5-16-2 and §5-16-7g of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-59-1 of said code; all relating to diabetes; defining terms; reducing copayments; adding coverage for devices; and permitting testing equipment to be purchased without a prescription.”

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

Com. Sub. for S. B. 594, Specifying fairness in cost sharing calculations for certain high deductible health plans; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 448**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Hillenbrand, Honaker, Howell, Jennings, Mallow, Marple, Martin, Nestor, E. Pritt, Skaff, Ward and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 594) passed.

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

On this question, the yeas and nays were taken (**Roll No. 449**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Hillenbrand, Honaker, Howell, Jennings, Mallow, Marple, Martin, Nestor, E. Pritt, Skaff, Ward and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 594) takes effect from its passage.

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

S. B. 605, Requiring state medical examiner to enter into contracts with procurement organization; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 450**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Howell, Jennings, Mallow, Marple, Skaff, Ward and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 605) passed.

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

On this question, the yeas and nays were taken (**Roll No. 451**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Howell, Jennings, Kump, Marple, Maynor, Skaff and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 605) takes effect from its passage.

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

S. B. 679, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 452**), and there were—yeas 89, nays 1, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Hite.

Absent and Not Voting: Clark, Ferrell, Foster, Hansen, Howell, Jennings, Marple, Skaff, Ward and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 679) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

S. B. 679 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §27-9-2, relating to forensic group homes; requiring the office to propose legislative rules; setting forth requirements on where a forensic group home may be located; requiring emergency rules; and providing for variance for existing providers.”

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

On this question, the yeas and nays were taken (**Roll No. 453**), and there were—yeas 90, nays 1, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Hite.

Absent and Not Voting: Clark, Ferrell, Foster, Hansen, Howell, Jennings, Skaff, Ward and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 679) takes effect from its passage.

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

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 454**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Foster, Hansen, Howell, Jennings, Ward, Williams and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 730) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 730 – “A Bill to amend and reenact §16-29E-3, §16-29E-5 and §16-29E-7 of the Code of West Virginia, as amended, all relating to the Legislative Oversight Commission on Health and Human Resources Accountability; defining terms; applying authority of commission to successor agencies of the Department of Health and Human Resources; removing limitation on commission review; expanding authority of commission; permitting commission to require reports; and setting forth instructions for reporting.”

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

On this question, the yeas and nays were taken (**Roll No. 455**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Foster, Hansen, Howell, Jennings, Ward and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 730) takes effect from its passage.

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

H. B. 2904, Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 456**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Fehrenbacher, Ferrell, Garcia, Hansen, Hite, Howell, Jennings, Reynolds, Ward and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2904) passed.

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

On this question, the yeas and nays were taken (**Roll No. 457**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Fehrenbacher, Ferrell, Garcia, A. Hall, Hite, Howell, Jennings, Reynolds, Ward and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2904) takes effect from its passage.

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

Com. Sub. for H. B. 2908, Supplementing and amending appropriations to the Department of Commerce, Division of Forestry; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 458**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Fehrenbacher, Ferrell, Garcia, A. Hall, Hite, Howell, Jennings, Linville, Reynolds, Steele, Ward and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2908) passed.

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

On this question, the yeas and nays were taken (**Roll No. 459**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Garcia, A. Hall, Hite, Howell, Jennings, Linville, Reynolds, Steele, Walker, Ward and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2908) takes effect from its passage.

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

H. B. 3557, Making a supplementary appropriation to the Department of Veterans' Assistance; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 460**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Ferrell, Garcia, A. Hall, Howell, Jennings, Kelly, Linville, Riley, Steele, Ward and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3557) passed.

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

On this question, the yeas and nays were taken (**Roll No. 461**), and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer, Clark, Devault, Ferrell, Garcia, A. Hall, Horst, Howell, Jennings, Kelly, Linville, Riley, Shamblin, Steele and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3557) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 51, Requiring impact statement in certain instances of school closing or consolidation; on second reading, coming up in regular order, was read a second time.

Delegate Tully moved to amend the bill on page 4, line 66, by striking the semicolon and inserting, “as determined by a 30 year analysis of population trends and property tax assessments.

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

The yeas and nays having been ordered, they were taken (**Roll No. 462**), and there were—yeas 6, nays 81, absent and not voting 13, with the yeas and the absent and not voting being as follows:

Yeas: Forsht, Hardy, Mallow, Miller, Summers and Tully.

Absent and Not Voting: Capito, Clark, Ferrell, Howell, Jennings, Kelly, Longanacre, Marple, C. Pritt, Shamblin, Steele, Williams and Worrell.

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

The bill was then ordered to third reading.

S. B. 131, Allowing municipal fire marshals to receive service weapon upon retirement; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 205, Relating to registration plates; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Technology and Infrastructure was reported by the Clerk.

Delegate Cannon asked and obtained unanimous consent that the amendment be withdrawn.

An amendment sponsored by Delegate Linville was reported by the Clerk.

Whereupon, Delegate Cannon indicated that the amendment had been updated with Delegate Cannon as the sponsor. Therefore

the amendment sponsored by Delegate Linville was considered withdrawn.

On motion of Delegate Cannon, the bill was amended on page 1 by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-14. Registration plates generally; description of plates; issuance of special numbers and plates; registration fees; special application fees; exemptions; commissioner to promulgate forms; suspension and nonrenewal. suspension of registration; electronic signatures.

~~(a) The division, upon registering a vehicle, shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer, or other motor vehicle.~~

~~(b) Registration plates issued by the division shall meet the following requirements:~~

~~(1) Every registration plate shall be of reflectorized material and have displayed upon it the registration number assigned to the vehicle for which it is issued; the name of this state, which may be abbreviated; and the year number for which it is issued or the date of expiration of the plate.~~

~~(2) Every registration plate and the required letters and numerals on the plate shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: *Provided*, That the requirements of this subdivision shall not apply to the year number for which the plate is issued or the date of expiration.~~

~~(3) Registration numbering for registration plates shall begin with the number two.~~

~~(c) The division may not issue, permit to be issued, or distribute any special registration plates except as follows:~~

~~(1) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.~~

~~(2) State officials and judges may be issued special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture, and the Attorney General, the members of both houses of the Legislature, including the elected officials of both houses of the Legislature, the justices of the Supreme Court of Appeals of West Virginia, the representatives and senators of the state in the Congress of the United States, the judges of the West Virginia circuit courts, active and retired on senior status, the judges of the United States district courts for the State of West Virginia and the judges of the United States Court of Appeals for the fourth circuit, if any of the judges are residents of West Virginia, a special registration plate for a Class A motor vehicle and a special registration plate for a Class G motoreycle owned by the official or his or her spouse: *Provided*, That the division may issue a Class A special registration plate for each vehicle titled to the official and a Class G special registration plate for each motoreycle titled to the official.~~

~~(B) Each plate issued pursuant to this subdivision shall bear any combination of letters and numbers not to exceed an amount determined by the commissioner and a designation of the office. Each plate shall supersede the regular numbered plate assigned to the official or his or her spouse during the official's term of office and while the motor vehicle is owned by the official or his or her spouse.~~

~~(C) The division shall charge an annual fee of \$15 for every registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.~~

~~(3) The division may issue members of the National Guard forces special registration plates as follows:~~

~~(A) Upon receipt of an application on a form prescribed by the division and receipt of written evidence from the chief executive officer of the Army National Guard or Air National Guard, as appropriate, or the commanding officer of any United States armed forces reserve unit that the applicant is a member thereof, the division shall issue to any member of the National Guard of this state or a member of any reserve unit of the United States armed forces a special registration plate designed by the commissioner for any number of Class A motor vehicles owned by the member. Upon presentation of written evidence of retirement status, retired members of this state's Army or Air National Guard, or retired members of any reserve unit of the United States armed forces, are eligible to purchase the special registration plate issued pursuant to this subdivision.~~

~~(B) The division shall charge an initial application fee of \$10 for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter. Except as otherwise provided herein, effective July 1, 2007, all fees currently held in the special revolving fund used in the administration of this section and all fees collected by the division shall be deposited in the State Road Fund.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's National Guard forces license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(4) Specially arranged registration plates may be issued as follows:~~

~~(A) Upon appropriate application, any owner of a motor vehicle subject to Class A registration, or a motorcycle subject to Class G registration, as defined by this article, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.~~

~~(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A 1-1 *et seq.* of~~

~~this code regarding the orderly distribution of the plates: *Provided*, That for purposes of this subdivision, the registration plates requested and issued shall include all plates bearing the numbers two through 2,000.~~

~~(C) An annual fee of \$15 shall be charged for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.~~

~~(5) The division may issue honorably discharged veterans special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration. All fees collected by the division shall be deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(6) The division may issue disabled veterans special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any disabled veteran who is exempt from the payment of registration fees under the provisions of this chapter a registration plate for a vehicle titled in the name of the qualified applicant which bears the letters "DV" in red and also the regular identification numerals in red.~~

~~(B) A surviving spouse may continue to use his or her deceased spouse's disabled veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(C) A qualified disabled veteran may obtain a second disabled veterans license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.~~

~~(7) The division may issue recipients of the distinguished Purple Heart medal special registration plates as follows:~~

~~(A) Upon appropriate application, there shall be issued to any armed service person holding the distinguished Purple Heart medal for persons wounded in combat a registration plate for a vehicle titled in the name of the qualified applicant bearing letters or numbers. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles and shall denote that those individuals who are granted this special registration plate are recipients of the Purple Heart. All letterings shall be in purple where practical.~~

~~(B) Registration plates issued pursuant to this subdivision are exempt from all registration fees otherwise required by the provisions of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's Purple Heart medal license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(D) A recipient of the Purple Heart medal may obtain a second Purple Heart medal license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.~~

~~(8) The division may issue survivors of the attack on Pearl Harbor special registration plates as follows:~~

~~(A) Upon appropriate application, the owner of a motor vehicle who was enlisted in any branch of the armed services that participated in and survived the attack on Pearl Harbor on December 7, 1941, the division shall issue a special registration plate for a vehicle titled in the name of the qualified applicant. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles.~~

~~(B) Registration plates issued pursuant to this subdivision are exempt from the payment of all registration fees otherwise required by the provisions of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's survivors of the attack on Pearl Harbor license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(D) A survivor of the attack on Pearl Harbor may obtain a second survivors of the attack on Pearl Harbor license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.~~

~~(9) The division may issue special registration plates to nonprofit charitable and educational organizations authorized under prior enactment of this subdivision as follows:~~

~~(A) Approved nonprofit charitable and educational organizations previously authorized under the prior enactment of this subdivision may accept and collect applications for special registration plates from owners of Class A motor vehicles together with a special annual fee of \$15, which is in addition to all other fees required by this chapter. The applications and fees shall be submitted to the Division of Motor Vehicles with the request that the division issue a registration plate bearing a combination of letters or numbers with the organization's logo or emblem, with the maximum number of letters or numbers to be determined by the commissioner.~~

~~(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code regarding the procedures for and approval of special registration plates issued pursuant to this subdivision.~~

~~(C) The commissioner shall set an appropriate fee to defray the administrative costs associated with designing and manufacturing special registration plates for a nonprofit charitable or educational organization. The nonprofit charitable or educational organization shall collect this fee and forward it to the division for deposit in the State Road Fund. The nonprofit charitable or educational organization may also collect a fee for marketing the special registration plates.~~

~~(10) The division may issue specified emergency or volunteer registration plates as follows:~~

~~(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, a member of a paid fire department, a member of the State Fire Commission, the State Fire Marshal, the State Fire Marshal's assistants, the State Fire Administrator, and voluntary rescue squad members may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group, or commission. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.~~

~~(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia, proof of compliance with all laws of this state regarding registration and licensure of motor vehicles, and payment of all required fees.~~

~~(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license~~

fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

~~(11) The division may issue specified certified firefighter registration plates as follows:~~

~~(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a special license plate which bears the insignia of the profession, for any number of Class A vehicles titled in the name of the qualified applicant. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subdivision.~~

~~(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia, proof of compliance with all laws of this state regarding registration and licensure of motor vehicles, and payment of all required fees. The firefighter certification department, section, or division of the West Virginia University fire service extension shall notify the commissioner in writing immediately when a firefighter loses his or her certification. If a firefighter loses his or her certification, the commissioner may not issue him or her a license plate under this subdivision.~~

~~(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.~~

~~(12) The division may issue special scenic registration plates as follows:~~

~~(A) Upon appropriate application, the commissioner shall issue a special registration plate displaying a scenic design of West Virginia which displays the words "Wild Wonderful" as a slogan.~~

~~(B) The division shall charge a special one time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund.~~

~~(13) The division may issue honorably discharged Marine Corps League members special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any honorably discharged Marine Corps League member a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.~~

~~(B) The division may charge a special one time initial application fee of \$10 in addition to all other fees required by this chapter. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration and shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged Marine Corps League license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(14) The division may issue military organization registration plates as follows:~~

~~(A) The division may issue a special registration plate for the members of any military organization chartered by the United States Congress upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.~~

~~(B) Upon appropriate application, the division may issue members of the chartered organization in good standing, as determined by the governing body of the chartered organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.~~

~~(C) The division shall charge a special one time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.~~

~~(D) A surviving spouse may continue to use his or her deceased spouse's military organization registration plate until the surviving spouse dies, remarries, or does not renew the special military organization registration plate.~~

~~(15) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife which shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.~~

~~(B) The division shall charge an annual fee of \$15 for each special nongame wildlife registration plate and each special wildlife registration plate in addition to all other fees required by this chapter. All annual fees collected for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources.~~

~~(C) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited in the State Road Fund.~~

~~(16) The division may issue members of the Silver Haired Legislature special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any person who is a duly qualified member of the Silver Haired Legislature a specialized registration plate which bears recognition of the applicant as a member of the Silver Haired Legislature.~~

~~(B) A qualified member of the Silver Haired Legislature may obtain one registration plate described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge an annual fee of \$15, in addition to all other fees required by this chapter, for the plate. All annual fees collected by the division shall be deposited in the State Road Fund.~~

~~(17) Upon appropriate application, the commissioner shall issue to a classic motor vehicle or classic motorcycle, as defined in §17A-10-3a of this code, a special registration plate designed by the commissioner. An annual fee of \$15, in addition to all other fees required by this chapter, shall be charged for each classic registration plate.~~

~~(18) Honorably discharged veterans may be issued special registration plates for motorcycles subject to Class G registration as follows:~~

~~(A) Upon appropriate application, there shall be issued to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of motorcycles subject to Class G registration titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.~~

~~(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee is to be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the~~

~~surviving spouse dies, remarries, or does not renew the license plate.~~

~~(19) Racing theme special registration plates:~~

~~(A) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.~~

~~(B) An annual fee of \$25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.~~

~~(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.~~

~~(20) The division may issue recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal, a registration plate for any number of vehicles titled in the name of the qualified applicant bearing letters or numbers. A separate registration plate shall be designed by the Commissioner of the Division of Motor Vehicles for each award that denotes that those individuals who are granted this special registration plate are recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal as applicable.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road~~

Fund: *Provided*, That nothing in this section exempts the applicant for a special registration plate under this subdivision from any other provision of this chapter.

~~(C) A surviving spouse may continue to use his or her deceased spouse's Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal special registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.~~

~~(21) The division may issue honorably discharged veterans special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States with verifiable service during World War II, the Korean War, the Vietnam War, the Persian Gulf War, or the War Against Terrorism a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the commissioner denoting service in the applicable conflict.~~

~~(B) The division shall charge a special one time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing contained in this section may be construed to exempt any veteran from any other provision of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans' registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.~~

~~(22) The division may issue special volunteer firefighter registration plates as follows:~~

~~(A) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in~~

~~white letters on a red background. The insignia shall be designed by the commissioner and shall contain a fireman's helmet insignia on the left side of the license plate.~~

~~(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the applicant's fire chief, stating that the applicant is a volunteer firefighter and justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.~~

~~(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special one time initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All application fees shall be deposited into the State Road Fund.~~

~~(23) The division may issue special registration plates which reflect patriotic themes, including the display of any United States symbol, icon, phrase, or expression which evokes patriotic pride or recognition. The division shall also issue registration plates with the words "In God We Trust":~~

~~(A) Upon appropriate application, the division shall issue to an applicant a registration plate of the applicant's choice, displaying a patriotic theme as provided in this subdivision, for a vehicle titled in the name of the applicant. A series of registration plates displaying patriotic themes shall be designed by the Commissioner of the Division of Motor Vehicles for distribution to applicants.~~

~~(B) The division shall charge a special one time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the license plates designated by this subdivision.~~

~~(24) Special license plates bearing the American flag and the logo "9/11/01":~~

~~(A) Upon appropriate application, the division shall issue special registration plates which shall display the American flag and the logo "9/11/01".~~

~~(B) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.~~

~~(25) The division may issue a special registration plate celebrating the centennial of the 4-H youth development movement and honoring the Future Farmers of America organization as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate depicting the symbol of the 4-H organization which represents the head, heart, hands, and health, as well as the symbol of the Future Farmers of America organization which represents a cross section of an ear of corn for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) The division shall charge an annual fee of \$15 for each special 4-H Future Farmers of America registration plate in addition to all other fees required by this chapter.~~

~~(26) The division may issue special registration plates to educators in the state's elementary and secondary schools and in the state's institutions of higher education as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) The division shall charge an annual fee of \$15 for each special educator registration plate in addition to all other fees required by this chapter.~~

~~(27) The division may issue special registration plates to members of the Nemesis Shrine as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Nemesis Shrine.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Nemesis Shrine to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.~~

~~(28) The division may issue volunteers and employees of the American Red Cross special registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue to any person who is a duly qualified volunteer or employee of the American Red Cross a specialized registration plate which bears~~

~~recognition of the applicant as a volunteer or employee of the American Red Cross for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(29) The division shall issue special registration plates to individuals who have received the U.S. Army Combat Infantryman Badge, Combat Action Badge, or Combat Medical Badge; the U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard Combat Action Ribbon; or the U.S. Air Force Combat Action Medal as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof that they have received the U.S. Army Combat Infantryman Badge, Combat Action Badge, or Combat Medical Badge; the U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard Combat Action Ribbon; or the U.S. Air Force Combat Action Medal.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(30) The division may issue special registration plates to members of the Knights of Columbus as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Columbus.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Knights of Columbus to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2007.~~

~~(31) The division may issue special registration plates to former members of the Legislature as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of former service as an elected or appointed member of the West Virginia House of Delegates or the West Virginia Senate.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. The design of the plate shall indicate total years of service in the Legislature.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(32) Democratic state or county executive committee member special registration plates:~~

~~(A) The division shall design and issue special registration plates for use by democratic state or county executive committee members. The design of the plates shall include an insignia of a donkey and shall differentiate by wording on the plate between state and county executive committee members.~~

~~(B) An annual fee of \$25 shall be charged for each democratic state or county executive committee member registration plate in addition to all other fees required by this chapter. All annual fees collected for each special plate issued under this subdivision shall be deposited into the State Road Fund.~~

~~(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.~~

~~(D) The division shall not begin production of a plate authorized under the provisions of this subdivision until the division receives at least 100 completed applications from the state or county executive committee members, including all fees required pursuant to this subdivision.~~

~~(E) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the democratic executive committee to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.~~

~~(33) The division may issue honorably discharged female veterans' special registration plates as follows:~~

~~(A) Upon appropriate application, there shall be issued to any female honorably discharged veteran, of any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a woman veteran.~~

~~(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.~~

~~(C) A surviving spouse may continue to use his deceased spouse's honorably discharged veterans license plate until the~~

~~surviving spouse dies, remarries, or does not renew the license plate.~~

~~(34) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with West Liberty State College to any resident owner of a motor vehicle. Resident owners may apply for the special license plate for any number of Class A vehicles titled in the name of the applicant. The special registration plates shall be designed by the commissioner. Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$15, which is in addition to any other registration or license fee required by this chapter. The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.~~

~~(35) The division may issue special registration plates to members of the Harley Owners Group as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Harley Owners Group.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(36) The division may issue special registration plates for persons retired from any branch of the armed services of the United States as follows:~~

~~(A) Upon appropriate application, there shall be issued to any person who has retired after service in any branch of the armed services of the United States, a special registration plate for any~~

number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as retired from the armed services of the United States.

~~(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any registrants from any other provision of this chapter.~~

~~(C) A surviving spouse may continue to use his or her deceased spouse's retired military license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(37) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with or support for Fairmont State University as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(38) The division may issue special registration plates honoring the farmers of West Virginia, and the division may issue special beekeeper pollinator registration plates as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate depicting a farming scene or other apt reference to farming, whether in pictures or words, at the discretion of the commissioner. Upon appropriate application, the division shall issue a special registration plate displaying a pollinator~~

~~species or advocating its protection as prescribed and designated by the commissioner.~~

~~(B) The division shall charge a special initial application fee of \$10 for each plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(39) The division shall issue special registration plates promoting education as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate displaying a children's education related theme as prescribed and designated by the commissioner and the State Superintendent of Schools.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(40) The division may issue members of the 82nd Airborne Division Association special registration plates as follows:~~

~~(A) The division may issue a special registration plate for members of the 82nd Airborne Division Association upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.~~

~~(B) Upon appropriate application, the division may issue members of the 82nd Airborne Division Association in good standing, as determined by the governing body of the organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.~~

~~(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt the applicant from any other provision of this chapter.~~

~~(D) A surviving spouse may continue to use his or her deceased spouse's special 82nd Airborne Division Association registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.~~

~~(41) The division may issue special registration plates to applicants supporting law enforcement officers, to retired members of the West Virginia State Police, and to survivors of wounds received in the line of duty as a member with a West Virginia law enforcement agency as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner which recognizes, supports, and honors the men and women of law enforcement and includes the words "Back the Blue". Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff's department, the State Police, or the law enforcement division of the Division of Natural Resources who has been wounded in the line of duty and awarded a Purple Heart in recognition thereof by the West Virginia Chiefs of Police Association, the West Virginia Sheriffs' Association, the West Virginia Troopers Association, or the Division of Natural Resources a special registration plate for one vehicle titled in the name of the qualified applicant with an insignia appropriately designed by the commissioner.~~

~~(B) For special registration plates supporting law enforcement officers, the division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. An annual fee of \$15 shall be charged for each plate supporting law enforcement officers in addition to all other fees required by this chapter.~~

~~(C) Registration plates issued pursuant to this subdivision to survivors of wounds received in the line of duty as a member with a West Virginia law enforcement agency are exempt from the registration fees otherwise required by the provisions of this chapter. A surviving spouse may continue to use his or her deceased spouse's special registration plate until the surviving spouse dies, remarries, or does not renew the plate. Survivors of wounds received in the line of duty as a member with a West Virginia law enforcement agency may obtain a license plate as described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.~~

~~(D) Upon appropriate application, the division may issue special registration plates designed by the commissioner for any number of vehicles titled in the name of the qualified applicant who offers sufficient proof of being a retired member of the West Virginia State Police. The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(42) The division may issue a special registration plate for persons who are Native Americans and residents of this state:~~

~~(A) Upon appropriate application, the division shall issue to an applicant who is a Native American resident of West Virginia a registration plate for a vehicle titled in the name of the applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a Native American.~~

~~(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(43) The division may issue special registration plates commemorating the centennial anniversary of the creation of Davis and Elkins College as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to commemorate the centennial anniversary of Davis and Elkins College for any number of vehicles titled in the name of the applicant.~~

~~(B) The division shall charge a special initial application fee of \$10. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(44) The division may issue special registration plates recognizing and honoring breast cancer survivors. The division may also issue special registration plates to support a cure for childhood cancer:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and honor breast cancer survivors, such plate to incorporate somewhere in the design the "pink ribbon emblem", for any number of vehicles titled in the name of the applicant. Upon appropriate application, the division may also issue a special registration plate designed by the commissioner to support a cure for childhood cancer, such plate to incorporate somewhere in the design the gold ribbon emblem with "WV Kids Cancer Crusaders" below or next to the emblem and "Cure Childhood Cancer" at the bottom of the plate, for any number of vehicles titled in the name of the applicant.~~

~~(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(45) The division may issue special registration plates to members of the Knights of Pythias or Pythian Sisters as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Pythias or Pythian Sisters.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(46) The commissioner may issue special registration plates for whitewater rafting enthusiasts as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.~~

~~(47) The division may issue special registration plates to members of Lions International as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with Lions International for any number of vehicles titled in the name of the qualified applicant. Persons desiring the~~

~~special registration plate shall offer sufficient proof of membership in Lions International.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(48) The division may issue special registration plates supporting organ donation and adoption as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner which recognizes, supports, and honors organ and tissue donors and includes the words "Donate Life", and the division may issue a special registration plate designed by the commissioner which supports and encourages adoption and includes the words "Choose Life".~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(49) The division may issue special registration plates to members of the West Virginia Bar Association as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the West Virginia Bar Association for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the West Virginia Bar Association.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(50) The division may issue special registration plates bearing an appropriate logo, symbol, or insignia combined with the words "SHARE THE ROAD" designed to promote bicycling in the state as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(51) The division may issue special registration plates honoring coal miners and the coal industry, as well as other professions, as set forth in this subdivision as follows:~~

~~(A)(i) Upon appropriate application, the division shall issue a special registration plate depicting and displaying coal miners in mining activities as prescribed and designated by the commissioner and the board of the National Coal Heritage Area Authority.~~

~~(ii) The division may issue registration plates with the words "Friends of Coal".~~

~~(iii) The division may issue special registration plates recognizing the occupation of linemen, showing appreciation for workers who construct and maintain utility lines, and depicting a~~

~~scene or other apt reference to the occupation of linemen, whether in words or pictures, at the discretion of the commissioner.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of license plates designated by this subdivision.~~

~~(52) The division may issue special registration plates to present and former Boy Scouts, and to present and former members of the Civil Air Patrol as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of present or past membership in the Boy Scouts as either a member or a leader, or in the Civil Air Patrol, as applicable. The special registration plates for the Civil Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(53) The division may issue special registration plates to present and former Boy Scouts who have achieved Eagle Scout status as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of achievement of Eagle Scout status.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(54) The division may issue special registration plates recognizing and memorializing victims of domestic violence:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and memorialize victims of domestic violence, such plate to incorporate somewhere in the design the "purple ribbon emblem", for any number of vehicles titled in the name of the applicant.~~

~~(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(55) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with, or support for, the University of Charleston as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee~~

~~shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(56) The division may issue special registration plates to members of the Sons of the American Revolution as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the Sons of the American Revolution for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Sons of the American Revolution.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.~~

~~(57) The commissioner may issue special registration plates for horse enthusiasts as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.~~

~~(58) The commissioner may issue special registration plates to the next of kin of a member of any branch of the armed services of the United States killed in combat as follows:~~

~~(A) Upon appropriate application, the division shall issue a special registration plate for any number of vehicles titled in the name of a qualified applicant depicting the Gold Star awarded by the United States Department of Defense as prescribed and designated by the commissioner.~~

~~(B) The next of kin shall provide sufficient proof of receiving a Gold Star lapel button from the United States Department of Defense in accordance with Public Law 534, 89th Congress, and criteria established by the United States Department of Defense, including criteria to determine next of kin.~~

~~(C) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of special license plates designated by this subdivision.~~

~~(59) The commissioner may issue special registration plates for retired or former justices of the Supreme Court of Appeals of West Virginia as follows:~~

~~(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.~~

~~(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.~~

~~(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of special license plates designated by this subdivision.~~

~~(60) Upon approval by the commissioner of an appropriate application, and upon all requirements of this subdivision being satisfied, the division may issue special registration plates for Class A and Class G motor vehicles to members of an organization for which a special registration plate has not been issued pursuant to any other subdivision in this subsection prior to January 1, 2010, in accordance with the provisions of this subdivision:~~

~~(A) An organization desiring to create a special registration plate must comply with the following requirements to be eligible to apply for the creation and issuance of a special registration plate:~~

~~(i) The organization must be a nonprofit organization organized and existing under Section 501(c)(3) of Title 26 of the Internal Revenue Code and based, headquartered, or have a chapter in West Virginia;~~

~~(ii) The organization may be organized for, but may not be restricted to, social, civic, higher education, or entertainment purposes;~~

~~(iii) The organization may not be a political party and may not have been created or exist primarily to promote a specific political or social belief, as determined by the commissioner in his or her sole discretion;~~

~~(iv) The organization may not have as its primary purpose the promotion of any specific faith, religion, religious belief, or antireligion;~~

~~(v) The name of the organization may not be the name of a special product or brand name, and may not be construed, as determined by the commissioner, as promoting a product or brand name; and~~

~~(vi) The organization's lettering, logo, image, or message to be placed on the registration plate, if created, may not be obscene,~~

~~offensive, or objectionable as determined by the commissioner in his or her sole discretion.~~

~~(B) Beginning July 1, 2010, an organization requesting the creation and issuance of a special registration plate may make application with the division. The application shall include sufficient information, as determined by the commissioner, to determine whether the special registration plate requested, and the organization making the application, meet all the requirements set forth in this subdivision. The application shall also include a proposed design, including lettering, logo, image, or message to be placed on the registration plate. The commissioner shall notify the organization of the commissioner's approval or disapproval of the application.~~

~~(C)(i) The commissioner may not begin the design or production of any license plates authorized and approved pursuant to this subdivision until the organization which applied for the special registration plate has collected and submitted collectively to the division applications completed by at least 250 persons and collectively deposited with the division all fees necessary to cover the first year's basic registration, one time design and manufacturing costs, and to cover the first year additional annual fee for all of the applications submitted.~~

~~(ii) If the organization fails to submit the required number of applications and fees within six months of the effective date of the approval of the application for the plate by the commissioner, the plate will not be produced until a new application is submitted and is approved by the commissioner. *Provided*, That an organization that is unsuccessful in obtaining the minimum number of applications may not make a new application for a special plate until at least two years have passed since the approval of the previous application of the organization.~~

~~(D) The division shall charge a special initial application fee of \$25 for each special license plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.~~

~~(E) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.~~

~~(F) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the organization for any number of vehicles titled in the name of a qualified registration plate applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the organization.~~

~~(G) The commissioner shall discontinue the issuance or renewal of the registration of any special plate issued pursuant to this subdivision if:~~

~~(i) The number of valid registrations for the specialty plate falls below 250 plates for at least 12 consecutive months; or~~

~~(ii) The organization no longer exists or no longer meets the requirements of this subdivision.~~

~~(d) The minimum number of applications required prior to design and production of a special license plate shall be as follows:~~

~~(1) The commissioner may not begin the design or production of any license plates for which eligibility is based on membership or affiliation with a particular private organization until at least 100 persons complete an application and deposit with the organization a check to cover the first year's basic registration, one time design and manufacturing costs, and to cover the first year additional annual fee. If the organization fails to submit the required number of applications with attached checks within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That an organization or group that is unsuccessful in obtaining the minimum number of applications may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization: *Provided, however*, That the provisions of this subdivision are not~~

~~applicable to the issuance of plates authorized pursuant to §17A-3-14(c)(60) of this code.~~

~~(2) The commissioner may not begin the design or production of any license plates authorized by this section for which membership or affiliation with a particular organization is not required until at least 250 registrants complete an application and deposit a fee with the division to cover the first year's basic registration fee, one time design and manufacturing fee, and additional annual fee, if applicable. If the commissioner fails to receive the required number of applications within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That if the minimum number of applications is not satisfied within the six months of the effective date of the original authorizing legislation, a person may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization.~~

~~(e)(1) Nothing in this section requires a charge for a free prisoner of war license plate or a free recipient of the Congressional Medal of Honor license plate for a vehicle titled in the name of the qualified applicant as authorized by other provisions of this code.~~

~~(2) A surviving spouse may continue to use his or her deceased spouse's prisoner of war license plate or Congressional Medal of Honor license plate until the surviving spouse dies, remarries, or does not renew the license plate.~~

~~(3) Qualified former prisoners of war and recipients of the Congressional Medal of Honor may obtain a second special registration plate for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second special plate.~~

~~(f) The division may issue special 10 year registration plates as follows:~~

~~(1) The commissioner may issue or renew for a period of no more than 10 years any registration plate exempted from registration fees pursuant to any provision of this code or any restricted use antique motor vehicle license plate authorized by §17A-10-3a of this code: *Provided*, That the provisions of this subsection do not apply to any person who has had a special registration suspended for failure to maintain motor vehicle liability insurance as required by §17D-2A-3 of this code or failure to pay personal property taxes as required by §17A-3-3a of this code.~~

~~(2) An initial nonrefundable fee shall be charged for each special registration plate issued pursuant to this subsection, which is the total amount of fees required by §17A-3-3, §17A-10-3a, or §17A-10-15 of this code for the period requested.~~

~~(g) The provisions of this section may not be construed to exempt any registrant from maintaining motor vehicle liability insurance as required by §17D-2A-3 of this code or from paying personal property taxes on any motor vehicle as required by §17A-3-3a of this code.~~

~~(h) The commissioner may, in his or her discretion, issue a registration plate of reflectorized material suitable for permanent use on motor vehicles, trailers, and semitrailers, together with appropriate devices to be attached to the registration to indicate the year for which the vehicles have been properly registered or the date of expiration of the registration. The design and expiration of the plates shall be determined by the commissioner. The commissioner shall, whenever possible and cost effective, implement the latest technology in the design, production, and issuance of registration plates, indices of registration renewal and vehicle ownership documents, including, but not limited to, offering Internet renewal of vehicle registration and the use of bar codes for instant identification of vehicles by scanning equipment to promote the efficient and effective coordination and communication of data for improving highway safety, aiding law enforcement, and enhancing revenue collection.~~

~~(i) Any license plate issued or renewed pursuant to this chapter which is paid for by a check that is returned for nonsufficient funds is void without further notice to the applicant. The applicant may not reinstate the registration until the returned check is paid by the applicant in cash, money order, or certified check and all applicable fees assessed as a result thereof have been paid.~~

~~(j) The division shall, upon request of a qualifying applicant, exempt one nonexempt military special registration plate per qualifying applicant from all registration fees. For purposes of this subsection:~~

~~(1) "Exempt military special registration plate" means a special registration plate related to military service that is issued pursuant to this section for which registration fees are exempt pursuant to this section or §17A-10-8 of this code, including, but not limited to, a special registration plate issued to one of the following:~~

~~(A) A disabled veteran pursuant to §17A-3-14(e)(6), §17A-10-8(4), or §17A-10-8(5) of this code;~~

~~(B) A recipient of the Purple Heart medal pursuant to §17A-3-14(e)(7) of this code;~~

~~(C) A survivor of the attack on Pearl Harbor pursuant to §17A-3-14(e)(8) of this code;~~

~~(D) A former prisoner of war pursuant to §17A-10-8(6) of this code; or~~

~~(E) A recipient of the Congressional Medal of Honor pursuant to §17A-10-8(7) of this code.~~

~~(2) "Nonexempt military special registration plate" means a special registration plate related to military service that is issued pursuant to this section for which registration fees are not exempt pursuant to this section or §17A-10-8 of this code, including, but not limited to, special registration plate issued to one of the following:~~

~~(A) A member of the National Guard forces pursuant to §17A-3-14(e)(3) of this code;~~

~~(B) An honorably discharged veteran pursuant to §17A-3-14(e)(5) or §17A-3-14(e)(21) of this code;~~

~~(C) An honorably discharged Marine Corps League member pursuant to §17A-3-14(e)(13) of this code;~~

~~(D) A member of a military organization pursuant to §17A-3-14(e)(14) of this code;~~

~~(E) A recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal pursuant to §17A-3-14(e)(20) of this code;~~

~~(F) A recipient of the Combat Infantry Badge or the Combat Medic Badge pursuant to §17A-3-14(e)(29) of this code;~~

~~(G) An honorably discharged female veteran pursuant to §17A-3-14(e)(33) of this code;~~

~~(H) A person retired from any branch of the armed services of the United States pursuant to §17A-3-14(e)(36) of this code; or~~

~~(I) A member of the 82nd Airborne Division Association pursuant to §17A-3-14(e)(40) of this code.~~

~~(3) "Qualifying applicant" means an applicant who qualifies for an exempt military special registration plate, and who also qualifies for a nonexempt military special registration plate, who requests that the division issue one such nonexempt military special registration plate instead of such exempt military special registration plate in order to have such nonexempt military special registration plate be exempt from the payment of registration fees.~~

(a) The division, upon registering a vehicle, shall issue to the owner one registration plate with a registration number consisting of a combination of letters, numerals, symbols, or characters in a configuration determined by the commissioner.

(b) Registration plates shall meet the following requirements:

(1) Plates must incorporate reflectorized material.

(2) Registration numbers shall be plainly readable from 100 feet during daylight.

(3) The commissioner may assign any additional feature to facilitate reciprocal agreements, facilitate interstate travel, promote highway safety, or promote the efficient operation of the division.

(c) The commissioner may suspend the registration of any owner who displays a damaged or illegible plate or otherwise fails to comply with the requirements of §17A-3-19 of this code.

(d) Any license plate issued or renewed pursuant to this chapter which is paid for by a check that is returned for nonsufficient funds is void without further notice to the applicant. The applicant may not reinstate the registration until the returned check is paid by the applicant in cash, money order, or certified check and all applicable fees assessed as a result thereof have been paid.

(e) In furtherance of the Uniform Electronic Transactions Act, §39A-1-1 *et seq.* of this code, the division may accept or authorize an electronic signature in any instance the law required to be enforced by the commissioner requires a signature or a pen and ink signature.

§17A-3-14a. Special registration plates for government officials.

(a) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.

(b) State officials and judges may be issued special registration plates as follows:

(1) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture, Attorney General,

members of both houses of the Legislature, including elected active and former officials of both houses of the Legislature, active or retired or former justices of the Supreme Court of Appeals of West Virginia, judges of the Intermediate Court of Appeals, representatives and senators of the state in the Congress of the United States, active or retired on senior status judges of the West Virginia circuit courts, the judges of the United States district courts for the State of West Virginia, and judges of the United States Court of Appeals for the fourth circuit, if any of the judges are residents of West Virginia, a special registration plate for any vehicle owned by the official or his or her spouse.

(2) Each plate issued pursuant to this subsection shall bear any combination of letters and numbers, not to exceed an amount determined by the commissioner, and a designation of the office. Each plate shall supersede the regular numbered plate assigned to the official or his or her spouse during the official's term of office and while the vehicle is owned by the official or his or her spouse.

(3) The division shall charge an annual fee of \$15 for every registration plate issued pursuant to this subsection, which is in addition to all other fees required by this chapter.

(4) The division shall charge a special initial application fee of \$10 for every application received by a former or retired government official authorized to receive a plate in this section, which is in addition to all other fees required by this chapter.

§17A-3-14b. Special registration plates for military personnel.

(a) The division may continue to issue special plates for any plate class authorized by enactments of §17A-3-14 of this code prior to the year 2023 for active, retired, or honorably discharged military personnel, or the next of kin of a member of any branch of the armed services of the United States killed in combat. The division shall charge an initial application fee of \$10 for each special registration plate issued pursuant to this section, which is in addition to all other fees required by this chapter. A surviving spouse may continue to use his or her deceased spouse's military

license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(b) The applicant shall present documentation as determined by the commissioner as evidence of qualification for any plate authorized in this section.

(c) The division may issue a special registration plate pursuant to this section to any number of vehicles titled in the name of the applicant.

(d) If a new special plate as authorized in this section recognizes members of a military organization chartered by the United States Congress, the division may produce such plate upon receipt of a guarantee from the organization of a minimum of 100 applicants.

§17A-3-14c. Specially arranged registration plates.

Specially arranged registration plates for plate classes and special registration plate types authorized by the commissioner may be issued as follows:

(1) Upon appropriate application, any owner of a motor vehicle subject to registration, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.

(2) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code regarding the orderly distribution of the plates: *Provided*, That for purposes of this subsection, the registration plates requested and issued shall include all plates bearing the numbers two through 2,000.

(3) An annual fee of \$15 shall be charged for each special registration plate issued pursuant to this section, which is in addition to all other fees required by this chapter.

§17A-3-14d. Special honorary military plates.

(a) The division may issue special plates to disabled veterans, recipients of the distinguished Purple Heart medal, recipients of the Congressional Medal of Honor, recipients of the Distinguished Service Cross, Navy Cross, and Air Force Cross, or veteran survivors of the attack on Pearl Harbor on December 7, 1941. Registration plates issued pursuant to this section are exempt from all registration fees otherwise required by the provisions of this chapter. A surviving spouse may continue to use the license plate of his or her deceased spouse that was issued pursuant to this section until the surviving spouse dies, remarries, or does not renew the license plate.

(b) A qualified applicant may obtain a second license plate as described in this section for use on a passenger vehicle titled in the name of the applicant. The division shall charge for the second plate a one-time fee of \$10, to be deposited into the State Road Fund, which is in addition to all other fees required by this chapter.

(c) The applicant shall present satisfactory proof as determined by the commissioner as evidence of qualification for any plate authorized in this section.

(d) An applicant qualified to receive a special plate under subsection (a) of this section, or qualified to receive a registration fee exemption under §17A-10-8(6) of this code as a former prisoner of war, may choose to transfer the registration fee exemptions to a special registration plate for military personnel for which the applicant also qualifies under §17A-3-14b of this code instead of receiving the honorary military plate pursuant to this section.

§17A-3-14e. Special registration plates for organizations.

(a) The division may continue to issue all special registration plates to organizations issued under a prior enactment of §17A-3-14 of this code.

(b) An organization requesting the creation and issuance of a special registration plate shall make application with the division.

The application shall include sufficient information, as determined by the commissioner, to determine whether the special registration plate requested, and the organization making the application, meet all the requirements set forth in this section and legislative rule. The application shall include a proposed design, including lettering, logo, image, or message to be placed on the registration plate. The commissioner shall notify the organization of the commissioner's approval or disapproval of the application.

(c) (1) The commissioner may not begin the design or production of any license plates authorized and approved pursuant to this section until the organization which applied for the special registration plate has collected and submitted collectively to the division applications completed by at least 100 persons and collectively deposited with the division all fees necessary to cover the first year's basic registration, one-time design and manufacturing costs, and the first year additional annual fee for all of the submitted applications.

(2) By concurrent resolution of the Legislature, the requirement to collectively deposited with the division all fees necessary to cover the first year's basic registration, one-time design, and manufacturing costs may be waived for any organization.

(d) If the organization fails to submit the required number of applications and fees within six months of the effective date of the approval of the application for the plate by the commissioner, the plate may not be produced until a new application is submitted and is approved by the commissioner: *Provided*, That an organization that is unsuccessful in obtaining the minimum number of applications may not make a new application for a special plate until at least two years have passed since the approval of the previous application of the organization.

(e) The division shall charge a special initial application fee of \$25 for each special license plate in addition to all other fees required by this chapter. This special fee shall be collected by the division and deposited in the State Road Fund.

(f) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(g) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the organization for any number of vehicles titled in the name of a qualified registration plate applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the organization unless the organization has identified in the application that the special registration plate is desired to be made available for general issuance.

(h) The commissioner may discontinue the issuance or renewal of the registration of any special plate issued pursuant to this section if:

(1) The number of valid registrations for the specialty plate falls below 100 plates for at least 12 consecutive months; or

(2) The organization no longer exists or no longer meets the requirements of this section.

(i) If a new design is requested after issuance of a special registration plate, the organization shall pay the costs of design and any unused material from the previous design. In addition, the division shall charge a special initial application fee of \$25 for each newly designed special license plate in addition to all other fees required by this chapter.

§17A-3-14f. Special 10-year registration plates.

(a) The division may issue special 10-year registration plates as follows for any registration plate exempted from registration fees pursuant to any provision of this code or any restricted use antique motor vehicle license plate authorized by §17A-10-3a of this code: *Provided*, That the provisions of this subsection do not apply to any person who has had a special registration suspended for failure to maintain motor vehicle liability insurance as required by §17D-2A-3 of this code or failure to pay personal property taxes as required by §17A-3-3a of this code.

(b) An initial nonrefundable fee shall be charged for each special registration plate issued pursuant to this section, which is the total amount of fees required by §17A-3-3, §17A-10-3a, or §17A-10-15 of this code for the period requested.

§17A-3-14g. Special registration plates for first responders.

(a) The division may issue special emergency or volunteer registration plates as follows:

(1) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, member of a paid fire department, member of the State Fire Commission, the State Fire Marshal, State Fire Marshal assistant, State Fire Administrator, or voluntary rescue squad member may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group, or commission. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subsection shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.

(2) Each application submitted pursuant to this subsection shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia, proof of compliance with all laws of this state regarding registration and licensure of motor vehicles, and payment of all required fees.

(3) Each application submitted pursuant to this subsection shall be accompanied by payment of a special initial application fee of \$10, which is in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(b) The division may issue special certified firefighter registration plates as follows:

(1) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a

special license plate that bears the insignia of the profession for any number of Class A vehicles titled in the name of the qualified applicant. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subsection shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subsection.

(2) Each application submitted pursuant to this subsection shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia, proof of compliance with all laws of this state regarding registration and licensure of motor vehicles, and payment of all required fees. The firefighter certification department, section, or division of the West Virginia University fire service extension shall notify the commissioner in writing immediately when a firefighter loses his or her certification. If a firefighter loses his or her certification, the commissioner may not issue him or her a license plate under this subsection.

(3) Each application submitted pursuant to this subsection shall be accompanied by payment of a special initial application fee of \$10, which is in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(c) The division may issue special volunteer firefighter registration plates as follows:

(1) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in white letters on a red background. The insignia shall be designed by the commissioner and shall contain a fireman's helmet insignia on the left side of the license plate.

(2) Each application submitted pursuant to this subsection shall be accompanied by an affidavit signed by the applicant's fire chief,

stating that the applicant is a volunteer firefighter and is justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.

(3) Each application submitted pursuant to this subsection shall be accompanied by payment of a special one-time initial application fee of \$10, which is in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(d) The division may issue special registration plates to applicants supporting law-enforcement officers, to retired members of the West Virginia State Police, and to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency as follows:

(1) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner which recognizes, supports, and honors the men and women of law-enforcement and includes the words Back the Blue. Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff's department, the State Police, or the law-enforcement division of the Division of Natural Resources who has been wounded in the line of duty and awarded a Purple Heart in recognition thereof by the West Virginia Chiefs of Police Association, the West Virginia Sheriffs' Association, the West Virginia Troopers Association, or the Division of Natural Resources a special registration plate for one vehicle titled in the name of the qualified applicant with an insignia appropriately designed by the commissioner.

(2) For special registration plates supporting law-enforcement officers, the division shall charge a special initial application fee of \$10 in addition to all other fees required by this chapter. This special fee shall be collected by the division and deposited in the State Road Fund. An annual fee of \$15 shall be charged for each plate supporting law-enforcement officers in addition to all other fees required by this chapter.

(3) Registration plates issued pursuant to this subsection to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency are exempt from the registration fees otherwise required by the provisions of this chapter. A surviving spouse may continue to use his or her deceased spouse's special registration plate until the surviving spouse dies, remarries, or does not renew the plate. Survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency may obtain a license plate as described in this subsection for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge for the second plate a one-time fee of \$10, to be deposited into the State Road Fund, which is in addition to all other fees required by this chapter.

(4) Upon appropriate application, the division may issue special registration plates designed by the commissioner for any number of vehicles titled in the name of the qualified applicant who offers sufficient proof of being a retired member of the West Virginia State Police. The division shall charge a special initial application fee of \$10 in addition to all other fees required by this chapter. This special fee shall be collected by the division and deposited in the State Road Fund.

§17A-3-14h. Special themed registration plates.

(a) The division may issue new special themed registration plates at the discretion of the commissioner and may continue to issue any special themed registration plate authorized under a prior enactment of §17A-3-14 of this code. The commissioner may discontinue the issuance or renewal of a special registration plate issued or authorized under this section at any time.

(b) Unless otherwise provided in this section, the division shall charge an initial application fee of \$10 and an annual fee of \$15 for each special themed registration plate in addition to all other fees required by this chapter.

(c) The division may not issue any special themed registration plate pursuant to subsection (a) of this section until at least 100

persons complete an application and deposit with the division a check to cover the first year's basic registration fee, initial application fee, and annual fee.

(d) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:

(1) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife that shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.

(2) All annual fees collected pursuant to this section for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources under authority granted in Article VI, Section 56 of The Constitution of West Virginia.

(3) All initial application fees collected by the division for nongame wildlife registration plates and wildlife registration plates shall be deposited in the State Road Fund.

(e) Racing theme special registration plates:

(1) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.

(2) An annual fee of \$25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.

(3) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate in addition to all other fees

required by this chapter. All application fees shall be deposited into the State Road Fund.

§17A-3-14i. Manufacturing of certain special registration plates; rulemaking.

(a) For all registration plates authorized pursuant to the provisions of §17A-3-14a, §17A-3-14b, §17A-3-14c, §17A-3-14d, §17A-3-14e, §17A-3-14f, §17A-3-14g, and §17A-3-14h, the division is not required to keep a stockpile of such plates, but may create a process for the issuance of such plates by special order.

(b) The division may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to administer the issuance of all special registration plates authorized in this article.”

The bill was then ordered to third reading.

S. B. 246, Revising membership of Broadband Enhancement Council; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 268, Relating to PEIA; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 423, Increasing salary for certain state employees; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 439, Establishing design-build program for DEP; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Riley, Burkhammer, Butler and Linville, the bill was amended on page 2, section 2, line 20, immediately following the word “article” by inserting the following:

“: *Provided*, That only contracts awarded directly by the Department of Environmental Protection may utilize the design-build delivery method authorized pursuant to the provisions of this article: *Provided, however*, design-build delivery projects awarded pursuant to the provisions of this article may not exceed a total aggregate value of \$50 million.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 463, Increasing validity of CDL instruction permit; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Linville, the bill was amended on page 2, section 9, line 42 immediately following the phrase “18 years of age” by striking the words “and has held a graduated Class E, Class E or Class D license for at least one year.”

The bill was then ordered to third reading.

S. B. 591, Allowing counties and municipalities to jointly undertake development projects; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 609, Obtaining approval for decommissioning or deconstructing of existing power plant; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 613, Relating generally to certificates of need; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page 14, section 10, line 62 after the words “performed at a hospital” by inserting the words “except for cardiac surgery and transplant services;”.

The question being on the adoption of the amendment, the same was put and did not prevail.

The bill was then ordered to third reading.

Com. Sub. for H. B. 2024, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, was read a second time.

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

First Reading

S. B. 142, Modifying procedures to settle estates of decedents,

S. B. 237, Relating to Public Employees Retirement System and State Teachers Retirement System,

Com. Sub. for S. B. 335, Authorizing Department of Homeland Security to promulgate legislative rules,

S. B. 449, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools,

Com. Sub. for S. B. 450, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board,

Com. Sub. for S. B. 453, Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor,

Com. Sub. for S. B. 455, Modifying certain used car restrictions,

S. B. 458, Setting rate of interest on delinquent retirement contribution submissions,

Com. Sub. for S. B. 468, Continuing Cabwaylingo State Forest Trail System,

Com. Sub. for S. B. 475, Modifying examinations for disability pensions,

S. B. 529, Allowing businesses to register as limited liability limited partnerships,

S. B. 597, Allowing Workforce WV to hire classified service exempt employees,

Com. Sub. for H. B. 2911, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services,

Com. Sub. for H. B. 2914, Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund,

H. B. 2927, Supplementing and amending appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitations - Correctional Units,

Com. Sub. for H. B. 3040, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary,

H. B. 3065, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission,

H. B. 3067, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit,

Com. Sub. for H. B. 3074, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities,

And,

H. B. 3108, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority.

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

Committee Reports

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 15, Requesting That the Joint Committee on Government and Finance send official correspondence to West Virginia's federal delegations stating West Virginia veterans' concerns and objections to the two TRICARE for Life ("TFL") proposals,

H. C. R. 62, U.S. Army PFC Clayton Collins Memorial Bridge,

H. C. R. 64, U. S. Army Air Corps PVT-II Charles A. White Memorial Road,

And,

Com. Sub. for S. C. R. 17, US Navy PO2 Phillip Joseph "PJ" Hainer Memorial Bridge,

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

Leaves of Absence

At the request of Delegate Jeffries, and by unanimous consent, leaves of absence for the day were granted Delegates Ferrell and Howell.

Miscellaneous Business

At 1:30 p.m., the House of Delegates adjourned until 9:00 a.m., Saturday, March 4, 2023.

Saturday, March 4, 2023

FIFTY-THIRD DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, March 3, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Householder announced that Com. Sub. for S. B. 268, H. B. 2024, Com. Sub. for S. B. 423 had been placed at the top of the calendar and S. B. 597, Second Reading, Special Calendar, had been transferred to the House Calendar.

Delegate Householder asked and obtained unanimous consent to proceed to the Twelfth Order of business to consider bills on Third Reading.

Special Calendar

Third Reading

Com. Sub. for S. B. 268, Relating to PEIA; on third reading, with the right to amend, was reported by the Clerk.

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

**“ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES’
INSURANCE ACT.**

§5-16-2. Definitions.

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) ‘Agency’ or ‘PEIA’ means the Public Employees Insurance Agency created by this article.

‘Applied behavior analysis’ means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

‘Autism spectrum disorder’ means any pervasive developmental disorder, including autistic disorder, Asperger’s syndrome, Rett syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

‘Certified behavior analyst’ means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

‘Dependent’ includes an eligible employee’s child under the age of 26 as defined in the Patient Protection and Affordable Care Act.

(2) ‘Director’ means the Director of the Public Employees Insurance Agency created by this article.

‘Distant site’ means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.

(3) ‘Employee’ means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia; and, for the purpose of this article only, the term

‘employee’ also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; a county, city, or town in the ~~State~~ state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person

elected to a county board of education shall be considered to be an 'employee' during the term of office of the elected member. Upon election by the ~~state~~ State Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the ~~state~~ State Board of Education is considered an 'employee' during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the ~~state~~ State Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an 'employee' if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the 'employee' for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) 'Employer' means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or intellectually

and developmentally disabled facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an ‘employer’ within the meaning of this article shall be decided by the director. The term ‘employer’ does not include within its meaning the National Guard.

‘Established patient’ means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

~~(5)~~ ‘Finance board’ means the Public Employees Insurance Agency finance board created by this article.

‘Health care practitioner’ means a person licensed under §30-1-1 *et seq.* of this code who provides health care services.

‘Originating site’ means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

‘Objective evidence’ means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for

continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

~~(6) 'Person' means any individual, company, association, organization, corporation, or other legal entity. including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article~~

~~(7) 'Plan' unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option, or the group life insurance plan offered by the agency. a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans.~~

'Prescription insulin drug' means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

'Primary coverage' means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder.

'Remote patient monitoring services' means the delivery of home health services using telecommunications technology to

enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(8) ‘Retired employee’ means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education, or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system, and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System, and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the

employer's past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

'Telehealth services' means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

'Virtual telehealth' means a new patient or follow-up patient for acute care that does not require chronic management or scheduled medications.

§5-16-3. Composition of Public Employees Insurance Agency; ~~appointment, qualifications, compensation and duties of director of agency; employees; civil service coverage.~~

(a) The Public Employees Insurance Agency consists of the director, the finance board, the advisory board, and any employees who may be authorized by law. The director shall be appointed by the Governor, with the advice and consent of the Senate, and serves at the will and pleasure of the Governor. The director shall have at least three years' experience in health or governmental health benefit administration as his or her primary employment duty prior to appointment as director. The director shall receive actual expenses incurred in the performance of official business. The director shall employ any administrative, technical, and clerical employees required for the proper administration of the programs provided in this article. The director shall perform the duties that are required of him or her under the provisions of this article and is the Chief Administrative Officer of the Public Employees Insurance Agency. The director may employ a deputy director.

(b) Except for the director, his or her personal secretary, the deputy director, and the chief financial officer, all positions in the agency shall be included in the classified service of the civil service system pursuant to §29-6-1 *et seq.* of this code.

(c) The director is responsible for the administration and management of the Public Employees Insurance Agency as provided in this article and in connection with his or her responsibility may make all rules necessary to effectuate the provisions of this article. Nothing in §5-16-4 or §5-16-5 of this code limits the director's ability to manage on a day-to-day basis the group insurance plans required or authorized by this article, including, but not limited to, administrative contracting, studies, analyses and audits, eligibility determinations, utilization management provisions and incentives, provider negotiations, provider contracting and payment, designation of covered and noncovered services, offering of additional coverage options or cost containment incentives, pursuit of coordination of benefits, and subrogation, or any other actions which would serve to implement the plan or plans designed by the finance board. The director is to function as a benefits management professional and should avoid political involvement in managing the affairs of the Public Employees Insurance Agency.

(d) The director may, if it is financially advantageous to the state, operate the Medicare retiree health benefit plan offered by the agency based on a plan year that runs concurrent with the calendar year. Financial plans as addressed in section five of this article shall continue to be on a fiscal-year basis.

(e) The director should make every effort to evaluate and administer programs to improve quality, improve health status of members, develop innovative payment methodologies, manage health care delivery costs, evaluate effective benefit designs, evaluate cost sharing and benefit-based programs, and adopt effective industry programs that can manage the long-term effectiveness and costs for the programs at the Public Employees Insurance Agency to include, but not be limited to:

(1) Increasing generic fill rates;

- (2) Managing specialty pharmacy costs;
- (3) Implementing and evaluating medical home models and health care delivery;
- (4) Coordinating with providers, private insurance carriers, and, to the extent possible, Medicare to encourage the establishment of cost-effective accountable care organizations;
- (5) Exploring and developing advanced payment methodologies for care delivery such as case rates, capitation, and other potential risk-sharing models and partial risk-sharing models for accountable care organizations and/or medical homes;
- (6) Adopting measures identified by the Centers for Medicare and Medicaid Services to reduce cost and enhance quality;
- (7) Evaluating the expenditures to reduce excessive use of emergency room visits, imaging services, and other drivers of the agency's medical rate of inflation;
- (8) Recommending cutting-edge benefit designs to the finance board to drive behavior and control costs for the plans;
- (9) Implementing programs to encourage the use of the most efficient and high-quality providers by employees and retired employees;
- (10) Identifying employees and retired employees who have multiple chronic illnesses and initiating programs to coordinate the care of these patients;
- (11) Initiating steps ~~by the agency~~ to adjust payment by the agency for the treatment of hospital-acquired infections and related events consistent with the payment policies, operational guidelines, and implementation timetable established by the Centers of Medicare and Medicaid Services. The agency shall protect employees and retired employees from any adjustment in payment for hospital acquired infections; and

(12) Initiating steps ~~by the agency~~ to reduce the number of employees and retired employees who experience avoidable readmissions to a hospital for the same diagnosis-related group illness within 30 days of being discharged by a hospital in this state or another state consistent with the payment policies, operational guidelines, and implementation timetable established by the Centers of Medicare and Medicaid Services.

~~(f) The director shall issue an annual progress report to the Joint Committee on Government and Finance on the implementation of any reforms initiated pursuant to this section and other initiatives developed by the agency~~

**§5-16-4. Public Employees Insurance Agency Finance Board
~~continued; qualifications, terms, and removal of members;
quorum; compensation and expenses; termination date.~~**

(a) The Public Employees Insurance Agency Finance Board is continued and consists of the Secretary of the Department of Administration or his or her designee, as a voting member, and 10 members appointed by the Governor, with the advice and consent of the Senate, for terms of four years and each may serve until his or her successor is appointed and qualified. Members may be reappointed for successive terms. No more than six members, including the Secretary of the Department of Administration, may be of the same political party. ~~Effective July 1, 2017, Members of the board shall satisfy the qualification requirements provided for by subsection (b) of this section. *Provided, That any member serving upon the effective date of this section who does not satisfy a requirement of subsection (b) of this section may continue to serve until his or her successor has been appointed and qualified.*~~ The Governor shall make appointments necessary to satisfy the requirements of subsection (b) of this section to staggered terms as determined by the Governor.

(b) (1) Of the 10 members appointed by the Governor with advice and consent of the Senate:

(A) One member shall represent the interests of education employees. The member shall hold a bachelor's degree, shall have

obtained teacher certification, shall be employed as a teacher for a period of at least three years prior to his or her appointment, and shall remain a teacher for the duration of his or her appointment to remain eligible to serve on the board.

(B) One member shall represent the interests of public employees. The member shall be employed to perform full- or part-time service for wages, salary, or remuneration for a public body for a period of at least three years prior to his or her appointment and shall remain an employee of a public body for the duration of his or her appointment to remain eligible to serve on the board.

(C) One member shall represent the interests of retired employees. The member shall meet the definition of retired employee as provided in §5-16-2 of this code.

(D) One member shall represent the interests of a participating political subdivision. The member shall have been employed by a political subdivision for a period of at least three years prior to his or her appointment and shall remain an employee of a political subdivision for the duration of his or her appointment to remain eligible to serve on the board. The member may not be an elected official.

(E) One member shall represent the interests of hospitals. The member shall have been employed by a hospital for a period of at least three years prior to his or her appointment and shall remain an employee of a hospital for the duration of his or her appointment to remain eligible to serve on the board.

(F) One member shall represent the interests of non-hospital health care providers. The member shall have owned his or her non-hospital health care provider business for a period of at least three years prior to his or her appointment and shall maintain ownership of his or her non-hospital health care provider business for the duration of his or her appointment to remain eligible to serve on the board.

(G) Four members shall be selected from the public at large, meeting the following requirements:

(i) One member selected from the public at large shall generally have knowledge and expertise relating to the financing, development, or management of employee benefit programs;

(ii) One member selected from the public at large shall have at least three years of experience in the insurance benefits business;

(iii) One member selected from the public at large shall be a certified public accountant with at least three years of experience with financial management and employee benefits program experience; and

(iv) One member selected from the public at large shall be a health care actuary or certified public accountant with at least three years of financial experience with the health care marketplace.

(2) No member of the board may be a registered lobbyist.

(3) All appointments shall be selected to represent the different geographical areas within the state and all members shall be residents of West Virginia. No member may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, neglect of fiduciary duty, or other specific responsibility imposed by this article or gross immorality.

(4) All members of the board shall have a fiduciary responsibility to protect plan assets for the benefit of plan participants.

(5) Beginning July 1, 2023, and every year thereafter, all board members shall complete fiduciary training and timely complete any conflict-of-interest forms required to serve as a fiduciary.

(c) The Secretary of the Department of Administration shall serve as chair of the finance board, which shall meet at times and places specified by the call of the chair or upon the written request to the chair by at least two members. The Director of the Public Employees Insurance Agency shall serve as staff to the board. Notice of each meeting shall be given in writing to each member by the director at least three days in advance of the meeting. Six members shall constitute a quorum. The board shall pay each

member the same compensation and expense reimbursement that is paid to members of the Legislature for their interim duties for each day or portion of a day engaged in the discharge of official duties.

(d) Upon termination of the board and notwithstanding any provisions of this article to the contrary, the director is authorized to assess monthly employee premium contributions and to change the types and levels of costs to employees only in accordance with this subsection. Any assessments or changes in costs imposed pursuant to this subsection shall be implemented by legislative rule proposed by the director for promulgation pursuant to §29A-3-1 *et seq.* of this code. Any employee assessments or costs previously authorized by the finance board shall then remain in effect until amended by rule of the director promulgated pursuant to this subsection.

§5-16-5. ~~Purpose, Powers and duties of the finance board; initial finance plan; financial plan for following year; and annual financial plans.~~

(a) The purpose of the finance board ~~created by this article~~ is to bring fiscal stability to the Public Employees Insurance Agency through development of annual financial plans and long-range plans designed to meet the agency's estimated total financial requirements, taking into account all revenues projected to be made available to the agency and apportioning necessary costs equitably among participating employers, employees, and retired employees and providers of health care services.

(b) The finance board shall retain the services of an impartial, professional actuary, with demonstrated experience in analysis of large group health insurance plans, to estimate the total financial requirements of the Public Employees Insurance Agency for each fiscal year and to review and render written professional opinions as to financial plans proposed by the finance board. The actuary shall also assist in the development of alternative financing options and perform any other services requested by the finance board or the director. All reasonable fees and expenses for actuarial services shall be paid by the Public Employees Insurance Agency. Any

financial plan or modifications to a financial plan approved or proposed by the finance board ~~pursuant to this section~~ shall be submitted to and reviewed by the actuary and may not be finally approved and submitted to the Governor and to the Legislature without the actuary's written professional opinion that the plan may be reasonably expected to generate sufficient revenues to meet all estimated program and administrative costs of the agency, including incurred but unreported claims, for the fiscal year for which the plan is proposed. ~~The actuary's opinion on the financial plan for each fiscal year shall allow for no more than thirty days of accounts payable to be carried over into the next fiscal year. The actuary's opinion for any fiscal year shall not include a requirement for establishment of a reserve fund~~

(c) All financial plans ~~required by this section~~ shall establish:

(1) ~~Maximum levels of reimbursement which the Public Employees Insurance Agency makes to categories of health care providers~~ The minimum level of reimbursement at 110 percent of the Medicare amount for all providers: *Provided, That the plan shall reimburse a West Virginia hospital that provides inpatient medical care to a beneficiary, covered by the state and non-state plans, at a minimum rate of 110 percent of the Medicare diagnosis-related group rate for the admission, or the Medicare per diem, per day rate applicable to a critical access hospital, as appropriate: *Provided, however, That the rates established pursuant to this subdivision do not apply to any Medicare primary retiree health plan.**

(2) Any necessary cost-containment measures for implementation by the director;

(3) The levels of premium costs to participating employers; and

(4) The types and levels of cost to participating employees and retired employees.

The financial plans may provide for different levels of costs based on the insureds' ability to pay. The finance board may establish different levels of costs to retired employees based upon

length of employment with a participating employer, ability to pay, or other relevant factors. The financial plans may also include optional alternative benefit plans with alternative types and levels of cost. The finance board may develop policies which encourage the use of West Virginia health care providers.

In addition, the finance board may allocate a portion of the premium costs charged to participating employers to subsidize the cost of coverage for participating retired employees, on such terms as the finance board determines are equitable and financially responsible.

(d)(1) The finance board shall prepare an annual financial plan for each fiscal year. ~~during which the finance board remains in existence~~ The finance board chairman shall request the actuary to estimate the total financial requirements of the Public Employees Insurance Agency for the fiscal year.

(2) The finance board shall prepare a proposed financial plan designed to generate revenues sufficient to meet all estimated program and administrative costs of the Public Employees Insurance Agency for the fiscal year. The proposed financial plan shall allow for no more than 30 days of accounts payable to be carried over into the next fiscal year. Before final adoption of the proposed financial plan, the finance board shall request the actuary to review the plan and to render a written professional opinion stating whether the plan will generate sufficient revenues to meet all estimated program and administrative costs of the Public Employees Insurance Agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If the actuary concludes that the proposed financial plan will not generate sufficient revenues to meet all anticipated costs, then the finance board shall make necessary modifications to the proposed plan to ensure that all actuarially determined financial requirements of the agency will be met.

(3) Upon obtaining the actuary's opinion, the finance board shall conduct ~~one or more~~ at least two public hearings in each congressional district to receive public comment on the proposed

financial plan, shall review the comments, and shall finalize and approve the financial plan.

(4) ~~Any financial plan shall be designed to allow thirty days or less of accounts payable to be carried over into the next fiscal year.~~ For each fiscal year, the Governor shall provide his or her estimate of total revenues to the finance board no later than October 15 of the preceding fiscal year: *Provided*, That for the prospective financial plans required by this section, the Governor shall estimate the revenues available for each fiscal year of the plans based on the estimated percentage of growth in general fund revenues; *Provided, however*, That the director and finance board may only use revenue estimates from the Governor as necessary to maintain an actuarially recommended reserve fund and to maintain premium cost-sharing percentages as required in this article: *Provided further*, That the director and finance board may not incorporate revenue sources into the finance board plan beyond the premium cost-sharing percentages as required in this article. The director shall provide the number of covered lives for the current fiscal year and a five-year analysis of the costs for covering paid claims to the finance board no later than October 15 of the preceding year. The finance board shall submit its final approved financial plan after obtaining the necessary actuary's opinion, which opinion shall include, but not be limited to, the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, at a level of 80 percent for the employer and 20 percent for employees, and conducting one or more public hearings in each congressional district to the Governor and to the Legislature no later than January 1 preceding the fiscal year. The financial plan for a fiscal year becomes effective and shall be implemented by the director on July 1 of the fiscal year. In addition to each final approved financial plan required under this section, the finance board shall also simultaneously submit financial statements based on generally accepted accounting practices (GAAP) and the final approved plan restated on an accrual basis of accounting, which shall include allowances for incurred but not reported claims. *Provided, however*, That The financial statements and the accrual-based

financial plan restatement shall not affect the approved financial plan.

(e) The provisions of §29A-1-1 *et seq.* of this code shall not apply to the preparation, approval and implementation of the financial plans required by this section.

(f) By January 1 of each year, the finance board shall submit to the Governor and the Legislature a prospective financial plan for a period not to exceed five years for the programs provided in this article. Factors ~~that~~ the board shall consider include, but are not limited to, the trends for the program and the industry; the medical rate of inflation; utilization patterns; cost of services; and specific information such as average age of employee population, active to retiree ratios, the service delivery system, and health status of the population.

(g) The prospective financial plans shall be based on the estimated revenues submitted in accordance §5-16-5(d)(4) of this code and shall include an average of the projected cost-sharing percentages of premiums and an average of the projected deductibles and copays for the various programs. ~~Beginning in the plan year which commences on July 1, 2002, and in each plan year thereafter, until and including the plan year which commences on July 1, 2006, the prospective plans shall include incremental adjustments toward the ultimate level required in this subsection, in the aggregate cost-sharing percentages of premium between employers and employees, including the amounts of any subsidization of retired employee benefits. Effective in the plan year commencing on July 1, 2006, and in~~ Each plan year, thereafter the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, shall be at a level of 80 percent for the employer and 20 percent for employees, except for the employers provided in §5-16-18(d) of this code whose premium cost-sharing percentages shall be governed by that subsection. After the submission of the initial prospective plan, the board may not increase costs to the participating employers or change the average of the premiums, deductibles, and copays for employees, except in the event of a true emergency. ~~as provided in~~

~~this section: *Provided, That* If the board invokes the emergency provisions, the cost shall be borne between the employers and employees in proportion to the cost-sharing ratio for that plan year. *Provided, however, That* For purposes of this section, ‘emergency’ means that the most recent projections demonstrate that plan expenses will exceed plan revenues by more than one percent in any plan year. *Provided further, That* The aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, may be offset, in part, by a legislative appropriation for that purpose.~~

(h) The finance board shall meet on at least a quarterly basis to review implementation of its current financial plan in light of the actual experience of the Public Employees Insurance Agency. The board shall review actual costs incurred, any revised cost estimates provided by the actuary, expenditures, and any other factors affecting the fiscal stability of the plan, and may make any additional modifications to the plan necessary to ensure that the total financial requirements of the agency for the current fiscal year are met. The finance board may not increase the types and levels of cost to employees during its quarterly review except in the event of a true emergency.

(i) For any fiscal year in which legislative appropriations differ from the Governor's estimate of general and special revenues available to the agency, the finance board shall, within 30 days after passage of the budget bill, make any modifications to the plan necessary to ensure that the total financial requirements of the agency for the current fiscal year are met.

(j) In the event the revenues in a given year exceed the expenses, the amount of revenues in excess of the expenses shall be retained by the Public Employees Insurance Agency to offset future premium increases.

§5-16-5b. Creation of trust for retirees hired on or after July 1, 2010.

[Repealed.]

§5-16-7. Authorization to establish ~~group hospital and surgical insurance plan, group major medical insurance plan, group drug prescription plans, and group life and accidental death insurance plan; rules for administration of plans~~ plans; mandated benefits; optional plans; separate rating for claims experience purposes.

(a) The agency shall establish ~~a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans~~ for those employees herein made eligible and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:

(1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or the American College of Obstetricians and Gynecologists; and a test for the human papilloma virus when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or the American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age 18 or over;

(2) Annual checkups for prostate cancer in men age 50 and over;

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed health care facility for a mother

and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or prior to 96 hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

(5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in subdivision (4) of this subsection if inpatient care is determined to be medically necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances, and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and

(6) Coverage for treatment of serious mental illness:

(A) The coverage does not include custodial care, residential care, or schooling. For purposes of this section, 'serious mental illness' means an illness included in the American Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of:

(i) Schizophrenia and other psychotic disorders;

(ii) Bipolar disorders;

(iii) Depressive disorders;

(iv) Substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders;

(v) Anxiety disorders; and

(vi) Anorexia and bulimia.

With regard to a covered individual who has not yet attained the age of 19 years, 'serious mental illness' also includes attention

deficit hyperactivity disorder, separation anxiety disorder, and conduct disorder.

(B) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use recognized health care quality and cost management tools including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks, and using patient cost sharing in the form of copayments, deductibles, and coinsurance. Additionally, the agency shall comply with the financial requirements and quantitative treatment limitations specified in 45 CFR 146.136(c)(2) and (c)(3), or any successor regulation. The agency may not apply any nonquantitative treatment limitations to benefits for behavioral health, mental health, and substance use disorders that are not applied to medical and surgical benefits within the same classification of benefits: *Provided*, That any service, even if it is related to the behavioral health, mental health, or substance use diagnosis if medical in nature, shall be reviewed as a medical claim and undergo all utilization review as applicable;

(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed health care individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia.

(B) A child who is 12 years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(8) (A) ~~Any plan issued or renewed on or after January 1, 2012, shall include coverage for~~ All plans shall include coverage for diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.

(B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. ~~The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual~~ This subdivision does not limit, replace, or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et seq.*, as amended from time to time, or other publicly funded programs. Nothing in

this subdivision requires reimbursement for services provided by public school personnel.

(C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:

(i) The individual's condition is improving in response to treatment;

(ii) A maximum improvement is yet to be attained; and

(iii) There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.

~~(D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.~~

(E) For purposes of this subdivision, the term:

(i) ~~'Applied behavior analysis' means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.~~

(ii) ~~'Autism spectrum disorder' means any pervasive developmental disorder including autistic disorder, Asperger's syndrome, Rett syndrome, childhood disintegrative disorder, or~~

~~Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.~~

~~(iii) ‘Certified behavior analyst’ means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.~~

~~(iv) ‘Objective evidence’ means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment~~

~~(F)(D)~~ To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(10) (A) ~~A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide~~ Coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the

absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and nonimmunoglobulin E-mediated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(11) The cost for coverage of children’s immunization services from birth through age 16 years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus, hepatitis-b, hemophilia influenzae-b, and whooping cough. Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes. Any contract entered into to cover these services shall require that all costs associated with immunization, including the cost of the vaccine, if incurred by the health care provider, and all

costs of vaccine administration be exempt from any deductible, per visit charge, and copayment provisions which may be in force in these policies or contracts. This section does not require that other health care services provided at the time of immunization be exempt from any deductible or copayment provisions.

(12) The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-58-1 of this code.

(13) The group life and accidental death insurance herein provided shall be in the amount of \$10,000 for every employee.

(b) The agency shall ~~with full authorization~~ make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education, and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare- eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or

advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

(e) The agency shall establish procedures to authorize treatment with a nonparticipating provider if a covered service is not available within established time and distance standards and within a reasonable period after service is requested, and with the same coinsurance, deductible, or copayment requirements as would apply if the service were provided at a participating provider, and at no greater cost to the covered person than if the services were obtained at or from a participating provider.

(f) If the Public Employees Insurance Agency offers a plan that does not cover services provided by an out-of-network provider, it may provide the benefits required in paragraph (A), subdivision (6), subsection (a) of this section if the services are rendered by a provider who is designated by and affiliated with the Public Employees Insurance Agency, and only if the same requirements apply for services for a physical illness.

(g) In the event of a concurrent review for a claim for coverage of services for the prevention of, screening for, and treatment of behavioral health, mental health, and substance use disorders, the service continues to be a covered service until the Public Employees Insurance Agency notifies the covered person of the determination of the claim.

(h) Unless denied for nonpayment of premium, a denial of reimbursement for services for the prevention of, screening for, or treatment of behavioral health, mental health, and substance use disorders by the Public Employees Insurance Agency shall include the following language:

(1) A statement explaining that covered persons are protected under this section, which provides that limitations placed on the access to mental health and substance use disorder benefits may be no greater than any limitations placed on access to medical and surgical benefits;

(2) A statement providing information about the internal appeals process if the covered person believes his or her rights under this section have been violated; and

(3) A statement specifying that covered persons are entitled, upon request to the Public Employees Insurance Agency, to a copy of the medical necessity criteria for any behavioral health, mental health, and substance use disorder benefit.

(i) On or after June 1, 2021, and annually thereafter, the Public Employees Insurance Agency shall submit a written report to the Joint Committee on Government and Finance that contains the following information regarding plans offered pursuant to this section:

(1) Data that demonstrates parity compliance for adverse determination regarding claims for behavioral health, mental health, or substance use disorder services and includes the total number of adverse determinations for such claims;

(2) A description of the process used to develop and select:

(A) The medical necessity criteria used in determining benefits for behavioral health, mental health, and substance use disorders; and

(B) The medical necessity criteria used in determining medical and surgical benefits;

(3) Identification of all nonquantitative treatment limitations that are applied to benefits for behavioral health, mental health, and substance use disorders and to medical and surgical benefits within each classification of benefits; ~~and~~

(4) The results of analyses demonstrating that, for medical necessity criteria described in subdivision (2) of this subsection and for each nonquantitative treatment limitation identified in subdivision (3) of this subsection, as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each nonquantitative treatment limitation to benefits for behavioral health, mental

health, and substance use disorders within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each nonquantitative treatment limitation to medical and surgical benefits within the corresponding classification of benefits;

(5) The Public Employees Insurance Agency's report of the analyses regarding nonquantitative treatment limitations shall include at a minimum:

(A) Identify factors used to determine whether a nonquantitative treatment limitation will apply to a benefit, including factors that were considered but rejected;

(B) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied on in designing each nonquantitative treatment limitation;

(C) Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to design each nonquantitative treatment limitation, as written, and the written processes and strategies used to apply each nonquantitative treatment limitation for benefits for behavioral health, mental health, and substance use disorders are comparable to, and are applied no more stringently than, the processes and strategies used to design and apply each nonquantitative treatment limitation, as written, and the written processes and strategies used to apply each nonquantitative treatment limitation for medical and surgical benefits;

(D) Provide the comparative analysis, including the results of the analyses, performed to determine that the processes and strategies used to apply each nonquantitative treatment limitation, in operation, for benefits for behavioral health, mental health, and substance use disorders are comparable to, and are applied no more stringently than, the processes and strategies used to apply each nonquantitative treatment limitation, in operation, for medical and surgical benefits; and

(E) Disclose the specific findings and conclusions reached by the Public Employees Insurance Agency that the results of the analyses indicate that each health benefit plan offered by the Public Employees Insurance Agency complies with paragraph (B), subdivision (6), subsection (a) of this section; and

(6) After the initial report required by this subsection, annual reports are only required for any year thereafter during which the Public Employees Insurance Agency makes significant changes to how it designs and applies medical management protocols.

(j) The Public Employees Insurance Agency shall update its annual plan document to reflect its comprehensive parity compliance. An annual report shall also be filed with the Joint Committee on Government and Finance and the Public Employees Insurance Agency Finance Board.

~~(k) This section is effective for policies, contracts, plans or agreements, beginning on or after January 1, 2021. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.~~

§5-16-7b. Coverage for telehealth services.

(a) The following terms are defined:

~~(1) ‘Distant site’ means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.~~

~~(2) ‘Established patient’ means a patient who has received professional services, face to face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.~~

~~(3) ‘Health care practitioner’ means a person licensed under §30-1-1 *et seq.* of this code who provides health care services.~~

~~(4) ‘Originating site’ means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other nonmedical environments such as school based health centers, university based health centers, or the work location of a patient.~~

~~(5) ‘Remote patient monitoring services’ means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.~~

~~(6) ‘Telehealth services’ means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health related education; public health services; and health administration. The term does not include e mail messages, or facsimile transmissions.~~

~~(7) ‘Virtual telehealth’ means a new patient or follow-up patient for acute care that does not require chronic management or scheduled medications.~~

~~(b) (a) After July 1, 2020 The plan shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.~~

~~(c) (b) After July 1, 2020 The plan may not exclude a service for coverage solely because the service is provided through telehealth services.~~

~~(d)~~ (c) The plan ~~which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021~~ shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company for virtual telehealth encounters. The plan ~~which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021~~ shall provide reimbursement for a telehealth service for an established patient, or care rendered on a consulting basis to a patient located in an acute care facility, whether inpatient or outpatient, on the same basis and at the same rate under a contract, plan, agreement, or policy as if the service is provided through an in-person encounter rather than provided via telehealth.

~~(e)~~ (d) The plan may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to the provisions of or the requirements of this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

~~(f)~~ (e) An originating site may charge the plan a site fee.

~~(g)~~ (f) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

§5-16-7c. Required coverage for reconstruction surgery following mastectomies.

(a) The plan shall provide, in a case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for:

(1) All stages of reconstruction of the breast on which the mastectomy has been performed;

(2) Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

(3) Prostheses and physical complications of mastectomy, including lymphedemas in a manner determined in consultation with the attending physician and the patient. Coverage shall be provided for a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified mastectomy and not less than 24 hours of inpatient care following a total mastectomy or partial mastectomy with lymph node dissection for the treatment of breast cancer. Nothing in this section shall be construed as requiring inpatient coverage where inpatient coverage is not medically necessary or where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter in the summary plan description or similar document.

(b) The plan may not:

(1) Deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section; and

(2) Penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section.

~~(c) Nothing in this section shall be construed to prevent a health benefit plan policy or a health insurer offering health insurance~~

~~coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.~~

~~(d) The provisions of this section shall be included under any policy, contract or plan delivered after July 1, 2002~~

§5-16-7g. Coverage for prescription insulin drugs.

(a) A ~~policy plan, or contract that is issued or renewed on or after July 1, 2020~~ shall provide coverage for prescription insulin drugs pursuant to this section.

~~(b) For the purposes of this subdivision, ‘prescription insulin drug’ means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:~~

~~(1) Rapid acting;~~

~~(2) Short acting;~~

~~(3) Intermediate acting;~~

~~(4) Long acting;~~

~~(5) Pre-mixed insulin products;~~

~~(6) Pre-mixed insulin/GLP-1 RA products; and~~

~~(7) Concentrated human regular insulin~~

(e) ~~(b)~~ Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person’s prescription needs.

~~(d)~~ ~~(c)~~ Nothing in this section prevents the agency from reducing a covered person’s cost sharing by an amount greater than the amount specified in this subsection.

~~(e)~~ (d) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the agency's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in subsection (c) of this section.

~~(f)~~ (e) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

~~(g)~~ (f) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in §33-53-1(k) of this code.

~~(h)~~ (g) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

~~(i)~~ (h) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

§5-16-8. Conditions of insurance program.

The insurance plans provided for in this article shall be designed by the Public Employees Insurance Agency:

(1) To provide a reasonable relationship between the hospital, surgical, medical, and prescription drug benefits to be included and the expected reasonable and customary hospital, surgical, medical, and prescription drug expenses as established by the director to be incurred by the affected employee, his or her spouse, and his or her dependents. The establishment of reasonable and customary expenses by the Public Employees Insurance Agency pursuant to the preceding sentence is not subject to ~~the state administrative procedures act in~~ chapter §29A-1-1 *et seq.* of this code;

(2) To include reasonable controls which may include deductible and coinsurance provisions applicable to some or all of the benefits, and shall include other provisions, including, but not limited to, copayments, preadmission certification, case management programs, and preferred provider arrangements;

(3) To prevent unnecessary utilization of the various hospital, surgical, medical, and prescription drug services available;

(4) To provide reasonable assurance of stability in future years for the plans;

(5) To provide major medical insurance for the employees covered under this article;

(6) To provide certain group life and accidental death insurance for the employees covered under this article;

(7) To include provisions for the coordination of benefits payable by the terms of the plans with the benefits to which the employee, or his or her spouse, or his or her dependents may be entitled by the provisions of any other group hospital, surgical, medical, major medical, or prescription drug insurance, or any combination thereof;

(8) To provide a cash incentive plan for employees, spouses, and dependents to increase utilization of, and to encourage the use of, lower cost alternative health care facilities, health care providers, and generic drugs. The plan shall be reviewed annually by the director and the advisory board;

(9) To provide health and wellness programs and resources impacting various components of health and wellness. PEIA may explore, review, evaluate, and offer a variety of health and wellness programming and resources to meet the needs of its members. ~~These programs are voluntary for participants and are separate and distinct from any medical benefit and activities which will include, but not be limited to, benefit plan incentives to discourage tobacco, alcohol and chemical abuse and an educational program to encourage proper diet and exercise. In establishing 'wellness' programs, the division of vocational rehabilitation shall cooperate with the Public Employees Insurance Agency in establishing statewide wellness programs. The director of the Public Employees Insurance Agency shall contract with county boards of education for the use of facilities, equipment or any service related to that purpose. Boards of education may charge only the cost of janitorial service and increased utilities for the use of the gymnasium and related equipment. The cost of the exercise program shall be paid by county boards of education, the Public Employees Insurance Agency, or participating employees, their spouses or dependents. All exercise programs shall be made available to all employees, their spouses or dependents and shall not be limited to employees of county boards of education;~~

(10) To provide a program, to be administered by the director, for a patient audit plan with reimbursement up to a maximum of \$1,000 annually to employees for discovery of health care provider or hospital overcharges when the affected employee brings the overcharge to the attention of the plan. The hospital or health care provider shall certify to the director that it has provided, prior to or simultaneously with the submission of the statement of charges for payments, an itemized statement of the charges to the employee participant for which payment is requested of the plan;

(11) To require that all employers give written notice to each covered employee prior to institution of any changes in benefits to employees, and to include appropriate penalty for any employer not providing the required information to any employee; and

(12)(a) ~~(A)~~ To provide coverage for emergency services under offered plans. ~~For the purposes of this subsection, ‘emergency services’ means services provided in or by a hospital emergency facility, an ambulance providing related services under the provisions of §16-4C-1 et seq. of this code, or the private office of a dentist to evaluate and treat a medical condition manifesting itself by the sudden, and at the time, unexpected onset of symptoms that require immediate medical attention and for which failure to provide medical attention would result in serious impairment to bodily function, serious dysfunction to any bodily organ or part, or would place the person's health in jeopardy.~~

~~(b) (B) From July 1, 1998,~~ Plans shall provide coverage for emergency services, including any pre-hospital services, to the extent necessary to screen and stabilize the covered person. The plans shall reimburse, less any applicable copayments, deductibles, or coinsurance for emergency services rendered and related to the condition for which the covered person presented. Prior authorization of coverage shall not be required for the screening services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists. In the event that prior authorization was obtained, the authorization may not be retracted after the services have been provided except when the authorization was based on a material misrepresentation about the medical condition by the provider of the services or the insured person. The provider of the emergency services and the plan representative shall make a good faith effort to communicate with each other in a timely fashion to expedite post-evaluation or post-stabilization services. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

~~(c) (C)~~ For purposes of this subdivision:

(A) 'Emergency services' means those services required to screen for or treat an emergency medical condition until the condition is stabilized, including pre-hospital care;

(B) 'Prudent layperson' means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical condition exists for which emergency treatment should be sought;

(C) 'Emergency medical condition for the prudent layperson' means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part;

(D) 'Stabilize' means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical probability that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(E) 'Medical screening examination' means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists; and

(F) 'Emergency medical condition' means a condition that manifests itself by acute symptoms of sufficient severity including severe pain such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment to bodily functions, or serious dysfunction of any bodily part or organ.

§5-16-9. Authorization to execute contracts. ~~for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance, and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of 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. ~~and to provide the plan or plans of group hospital and surgical insurance coverage, group major medical insurance coverage, group prescription drug insurance coverage, and group life and accidental death insurance coverage selected in accordance with the provisions of this article, such contract or contracts to be executed with one or more agencies, corporations, insurance companies, or service organizations licensed to sell group hospital and surgical insurance, group major medical insurance, group prescription drug insurance and group life and accidental death insurance in this state.~~

~~(b) The group hospital or surgical insurance coverage and group major medical insurance coverage herein provided shall include coverages and benefits for x-ray and laboratory services in connection with mammogram and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age 50 and over. Such benefits shall include, but not be limited to, the following:~~

~~(1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force;~~

~~(2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age 18 and over;~~

~~(3) A test for the human papilloma virus (HPV) for women age 18 or over, when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or the American College of Obstetricians and Gynecologists for women age 18 and over;~~

~~(4) A checkup for prostate cancer annually for men age 50 or over; and~~

~~(5) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation.~~

~~(6) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:~~

~~(A) Seven years of age or younger or is developmentally disabled and is either an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia; or~~

~~(B) A child who is 12 years of age or younger with documented phobias, or with documented mental illness, and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.~~

~~(7) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall~~

~~provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:~~

~~(i) Immunoglobulin E and Nonimmunoglobulin E-mediated allergies to multiple food proteins;~~

~~(ii) Severe food protein-induced enterocolitis syndrome;~~

~~(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and~~

~~(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract (short bowel).~~

~~(B) The coverage required by §5-16-9(b)(7)(A) of this code shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.~~

~~(C) For purposes of this subdivision, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.~~

~~(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.~~

~~(c) The group life and accidental death insurance herein provided shall be in the amount of \$10,000 for every employee. The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced to \$5,000 upon such employee attaining age 65.~~

~~(d) All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers~~

~~(e)~~ (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, ~~who~~ that may wish to offer plans for the insurance coverage desired. ~~Provided, That~~ 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; ~~but:~~ 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. ~~Provided, however, That~~ 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 take into account 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.

(f) (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.

(g) (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.

(h) (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.

(i) ~~The director shall provide by contract or contracts entered into under the provisions of this article the cost for coverage of children's immunization services from birth through age 16 years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus, hepatitis b, hemophilia influenzae b, and whooping cough. Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes. Any contract entered into to cover these services shall require that all costs associated with immunization, including the cost of the vaccine, if incurred by the healthcare provider, and all costs of vaccine administration be exempt from any deductible, per visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other~~

~~healthcare services provided at the time of immunization be exempt from any deductible and/or copayment provisions~~

(j) (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; and

(D) The amount charged to the agency for each claim by the pharmacy benefit manager.

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. All data and information provided by the pharmacy benefit manager shall be kept secure, and notwithstanding any other provision of this code to the contrary, the agency shall maintain the confidentiality of the

proprietary information and not share or disclose the proprietary information contained in the report or data collected with persons outside the agency. All data and information provided by the pharmacy benefit manager shall be considered proprietary and confidential and exempt from disclosure under the West Virginia Freedom of Information Act pursuant to §29B-1-4(a)(1) of this code. Only those agency employees involved in collecting, securing, and analyzing the data for the purpose of preparing the report provided for herein shall have access to the proprietary data. The director shall provide a quarterly report to ~~the Joint Committee on Government and Finance and~~ 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 a quarterly basis.

~~(k)~~ (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.

§5-16-10. Contract provisions for group hospital and surgical, group major medical, group prescription drug and group life, and accidental death insurance for retired employees, their spouses, and dependents.

~~Any contract or contracts entered into hereunder may provide for group hospital and surgical, group major medical, group prescription drug and group life and accidental death insurance~~ A plan may provide benefits for retired employees and their spouses and dependents as defined by rules and regulations of the Public

Employees Insurance Agency, and on such terms as the director may deem appropriate.

In the event the Public Employees Insurance Agency provides the above benefits for retired employees, their spouses, and dependents, the Public Employees Insurance Agency shall adopt rules and regulations prescribing the conditions under which retired employees may elect to participate in or withdraw from the plan or plans. Any ~~contract or contracts herein~~ plan provided for shall be secondary to any ~~hospital, surgical, major medical, prescription drug or other health insurance~~ plan administered by the United States Department of Health and Human Services to which the retired employee, spouse, or dependent may be eligible under any law or regulation of the United States. If an employee eligible to participate in the Public Employees Insurance Agency plans is also eligible to participate in the state Medicaid program, and chooses to do so, then the Public Employees Insurance Agency may transfer to the Medicaid program funds to pay the required state share of such employee's participation in Medicaid except that the amount transferred may not exceed the amount that would be allocated by the agency to subsidize the cost of coverage for the retired employee if he or she were enrolled in the Public Employees Insurance Agency's plans.

§5-16-11. To whom benefits paid.

Any benefits payable under ~~any group hospital and surgical, group major medical and group prescription drug plan or plans~~ a plan may be paid either directly to the ~~attending physician~~ medical provider, hospital, medical group, or other person, firm, association, or corporation furnishing the service upon which the claim is based, or to the insured upon presentation of valid bills for such service, subject to such provisions designed to facilitate payments as may be made by the director.

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of

health insurance for surviving dependents of deceased employees; requirement of new health plan; limiting employer contribution.

(a) *Cost-sharing.* — The director shall provide ~~under any contract or contracts entered into under the provisions of this article that the costs of any group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance benefit plan or plans that shall be paid by the employer and employee.~~

(b) *Spouse and dependent coverage.* — ~~Each~~ (1) An employee is entitled to have his or her spouse and dependents included in any group hospital and surgical insurance, group major medical insurance or group prescription drug insurance coverage plan to which the employee is entitled to participate. *Provided, That*

(2) The spouse and dependent coverage is limited to excess or secondary coverage for each spouse and dependent who has primary coverage from any other source. If an employee's spouse has health insurance available through an employer not defined in §5-16-2 of this code, then the employer may not cover any portion of premiums for the employee's spouse coverage, unless the employee adds his or her spouse to his or her coverage by paying the cost of the actuarial value of the plan: *Provided, That* this does not apply to spouses of retired employees or employers subject to §5-16-22 of this code. For purposes of this subsection, 'actuarial value' means the value as recommended by healthcare actuaries under §5-16-5 of this code.

~~For purposes of this section, the term 'primary coverage' means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. For the purposes of this section, 'dependent' includes an eligible employee's unmarried child or stepchild under the age of 25 if that child or stepchild meets the definition of a 'qualifying child' or a 'qualifying relative' in Section 152 of the Internal Revenue Code. The director may require proof regarding spouse and dependent primary coverage and shall~~

adopt rules governing the nature, discontinuance, and resumption of any employee's coverage for his or her spouse and dependents.

(c) *Continuation after termination.* — If an employee participating in the plan is terminated from employment involuntarily or in reduction of work force, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee and the employer shall continue to contribute the employer's share of plan premiums for the coverage. An employee discharged for misconduct shall not be eligible for extended benefits under this section. Coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge of misconduct are pursued. If the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within 12 months of his or her prior termination, he or she shall not be considered a new enrollee and may not be required to again contribute his or her share of the premium cost if he or she had already fully contributed such share during the prior period of employment.

(d) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan before July, 1988.* - Except as otherwise provided in subsection (g) of this section, when an employee participating in the plan, who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before reaching the age of ~~sixty-five~~ 65, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: The insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her spouse and dependents, the insurance coverage shall continue one additional month for every three days

of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.

(e) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan after June, 1988.* —Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this section, when an employee participating in the plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her spouse, and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining premium cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an employee who has been a participant under spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

(f) ~~Increased retirement benefits for retired employees with accrued annual and sick leave.~~ In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days' retirement service credit for each one day of accrued annual and sick leave, toward an increase in the

employee's retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system: *Provided*, That for a person who first becomes a member of the Teachers Retirement System as provided in §18-7A-1 *et seq.* of this code on or after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not be applied for retirement service credit. ~~However;~~ *Provided, however*, That the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) *Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education employees.*— Except as otherwise provided in subsection (k) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for 12 months, is compelled or required by law to retire before reaching the age of 65, or when such a participating employee voluntarily retires as provided by law, that employee's insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for 12 months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the University of West Virginia Board of Trustees and the Board of Directors of the State College System, for individual coverage, or one additional year for each five years of teaching service for family coverage.

~~(h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the conditions of the 'retired employee' definition in section two of this article, shall be eligible for insurance coverage under the same terms and provisions of this article. The retired employee's premium contribution for any such coverage shall be established by the finance board.~~

~~(i) (h) Retiree participation. — All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to April 21, 1972; and those~~

~~hereafter retiring~~ All retired employees are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

~~(j)~~ (i) *Surviving spouse and dependent participation.* — A surviving spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any comprehensive group health insurance coverage provided under this article to which the deceased employee was entitled, and the spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

~~(k)~~ (j) *Elected officials.* — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now, nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave, or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave, or personal leave to elected public officials, and the very nature of those positions preclude the arising or accumulation of any leave so as to be thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.

~~(l)~~ (k) *Participation of certain former employees.* — An employee, eligible for coverage under the provisions of this article who has twenty years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for twenty years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays one hundred five percent of the cost of retiree coverage: *Provided*, That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

~~(m)~~ (l) *Prohibition on conversion of accrued annual and sick leave for extended coverage upon retirement for new employees*

who elect to participate in the plan after June, 2001. -- Any employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: Provided, That any person who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she becomes reemployed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her reemployment.

~~(n)~~ (m) *Prohibition on conversion of accrued years of teaching service for extended coverage upon retirement for new employees who elect to participate in the plan July, 2009. — Any employee hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of teaching service toward the cost of premiums for extended insurance coverage upon his or her retirement.*

§5-16-14. Program qualifying for favorable federal income tax treatment.

~~The director shall develop, implement and have in place by December 31, 1990,~~ deductible and employee premium programs which qualify for favorable federal income tax treatment under section 125 of the Internal Revenue Code.

§5-16-15. Optional dental, optical, disability, and prepaid retirement plan, and audiology and hearing-aid service plan.

~~(a) On and after July 1, 1989~~ The director shall make available to participants in the public employees insurance system:

- (1) A dental insurance plan;
- (2) An optical insurance plan;
- (3) A disability insurance plan;

(4) A prepaid retirement insurance plan; and

(5) An audiology and hearing-aid services insurance plan.

(b) Public employees insurance participants may elect to participate in any one of these plans separately or in combination. All actuarial and administrative costs of each plan shall be totally borne by the premium payments of the participants or local governing bodies electing to participate in that plan. The director is authorized to employ such administrative practices and procedures with respect to these optional plans as are authorized for the administration of other plans under this article. The director shall establish separate funds ~~(1) For deposit of dental insurance premiums and payment of dental insurance claims; (2) for deposit of optical insurance premium payments and payment of optical insurance claims; (3) for deposit of disability insurance premium payments and payment of disability insurance claims; and (4) for deposit of audiology and hearing aid service insurance premiums and payment of audiology and hearing aid insurance claims~~ for each of the above listed plans. ~~Such~~ The funds shall not be supplemented by nor be used to supplement any other funds.

~~(b) The Finance Board shall study the feasibility of an oral health benefit for children of participants~~

§5-16-16. Preferred provider plan.

The director shall ~~on or before April 1, 1988, or as soon as practicable~~ establish a preferred provider system for the delivery of health care to plan participants by all health care providers, which may include, but not be limited to, medical doctors, chiropractors, physicians, osteopathic physicians, surgeons, hospitals, clinics, nursing homes, pharmacies, and pharmaceutical companies.

The director shall establish the terms of the preferred provider system and the incentives therefor. The terms and incentives may include multiyear renewal options as are not prohibited by the Constitution of this state and capitated primary care arrangements which are not subject to the provisions of §33-25A-1 *et seq.* of this code.

§5-16-18. Payment of costs by employer; schedule of insurance; special funds created; duties of Treasurer with respect thereto.

(a) All employers operating from state general revenue or special revenue funds, or federal funds, or any combination of those funds, shall budget the cost of insurance coverage provided by the Public Employees Insurance Agency to current and retired employees of the employer as a separate line item titled 'PEIA' in its respective annual budget and are responsible for the transfer of funds to the director for the cost of insurance for employees covered by the plan. Each spending unit shall pay to the director its proportionate share from each source of funds. Any agency wishing to charge General Revenue Funds for insurance benefits for retirees under §5-16-13 of this code shall provide documentation to the director that the benefits cannot be paid for by any special revenue account or that the retiring employee has been paid solely with General Revenue Funds for ~~twelve~~ 12 months prior to retirement.

(b) If the general revenue appropriation for any employer, excluding county boards of education, is insufficient to cover the cost of insurance coverage for the employer's participating employees, retired employees, and surviving dependents, the employer shall pay the remainder of the cost from its 'personal services' or 'unclassified' line items. The amount of the payments for county boards of education shall be determined by the method set forth in §18-9A-24 of this code: *Provided*, That local excess levy funds shall be used only for the purposes for which they were raised: *Provided, however*, That after approval of its annual financial plan, but in no event later than December 31 of each year, the finance board shall notify the Legislature and county boards of education of the maximum amount of employer premiums that the county boards of education shall pay for covered employees during the following fiscal year.

(c) All other employers not operating from the state General Revenue Fund shall pay to the director their share of premium costs from their respective budgets. The finance board shall establish the

employers' share of premium costs to reflect and pay the actual costs of the coverage including incurred but not reported claims.

(d) The contribution of the other employers (~~namely: A county, city, or town~~) that are counties, cities, or towns in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or comprehensive mental ~~retardation~~ health facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to ~~section one, article two a, chapter twenty seven~~ §27-2A-1 et seq. of this code, and which is supported in part by state, county, or municipal funds; and a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code for their employees shall be the percentage of the cost of the employees' insurance package as the employers determine reasonable and proper under their own particular circumstances.

(e) The employee's proportionate share of the premium or cost shall be withheld or deducted by the employer from the employee's salary or wages as and when paid and the sums shall be forwarded to the director with any supporting data as the director may require.

(f) All moneys received by the Public Employees Insurance Agency shall be deposited in a special fund or funds as are necessary in the State Treasury and the Treasurer ~~of the state~~ is custodian of the fund or funds and shall administer the fund or funds in accordance with the provisions of this article or as the director may from time to time direct. The Treasurer shall pay all warrants issued by the State Auditor against the fund or funds as the director may direct in accordance with the provisions of this article. All funds received by the agency, ~~including, but not limited to, basic insurance premiums, administrative expenses and optional life insurance premiums~~ shall be deposited, as determined by the director, in any of the investment pools with the West Virginia Investment Management Board, ~~including, but not limited to, the~~

~~equity and fixed income pools~~ with the interest income or other earnings a proper credit to all such funds for the benefit of the Public Employees Insurance Agency.

(g) The Public Employees Insurance Agency may recover an additional interest amount from any employer that fails to pay in a timely manner any premium or minimum annual employer payment, as defined in ~~article sixteen d of this chapter~~ §5-16D-1 et seq. of this code, which is due and payable to the Public Employees Insurance Agency or the Retiree Health Benefit Trust. The agency may recover the amount due plus an additional amount equal to 2.5 percent per annum of the amount due. Accrual of interest owed by the delinquent employer commences upon the ~~thirty first~~ 31st day following the due date for the amount owed and shall continue until receipt by the Public Employees Insurance Agency of the delinquent payment. Interest shall compound every ~~thirty~~ 30 days.

§5-16-23. Members of Legislature may be covered if cost of the entire coverage is paid by such members.

~~Notwithstanding the definition of the term ‘employee’ contained in section two of this article and~~ Notwithstanding any other provision of this article to the contrary, members of the Legislature may participate in and be covered by any insurance plan or plans authorized hereunder for state officers and employees, except that all members of the Legislature who elect to participate in or to be covered by any such plan or plans shall pay their proportionate individual share of the full cost for all group coverage on themselves, ~~and~~ their spouses, and dependents, so that there will be no cost to the state for the coverage of any such members, spouses, and dependents.

§5-16-25. Reserve fund.

~~Upon the effective date of this section~~ The finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year. ~~Beginning with the fiscal year 2002 plan and for each succeeding fiscal year plan~~ The finance board shall maintain the actuarially recommended reserve in an amount no less than 10 percent of the projected total plan costs

for that fiscal year in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature. ~~in accordance with the provisions of this article.~~

§5-16-26. Quarterly report.

~~By October 30, 1991, and~~ On or before the ~~thirtieth~~ 30th day of January, April, July, and October ~~of each year thereafter~~ the director shall prepare for the approval of the finance board, and thereafter present to the Joint Committee on Government and Finance a quarterly report setting forth:

(a) A summary of the cost to the plan of health care claims incurred in the preceding calendar quarter;

(b) A summary of the funds accrued to the plan by legislative appropriation, employer and employee premiums, or otherwise, in the preceding calendar quarter for payment of health care claims;

(c) An explanation of all cost containment measures, increased premium rates, and any other plan changes adopted by the director in the preceding calendar quarter and estimated cost savings and enhanced revenues resulting therefrom, and a certification that the director made a good faith effort to develop and implement all reasonable health care cost containment alternatives;

(d) Expected claim costs for the next calendar year;

(e) Such other information as the director deems appropriate; and

(f) Any other financial or other information as may be requested by the Joint Committee on Government and Finance.

§5-16-28. Incorporation of the coverage for 12-month refill for contraceptive drugs.

[Repealed.]

§5-16-30. PEIA solvency.

The Public Employees Insurance Agency shall return to, and provide that, the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, shall be at a level of 80 percent for the employer and 20 percent for employees during fiscal year 2024 and thereafter.

§5-16-31. PEIA actuarial study.

PEIA shall conduct an independent actuarial study of the financial solvency of the plan, including, but not limited to, a consideration of alternatives to bring long-term financial stability to the plan, options regarding continued nonstate employee participation in the plan, collapsing salary levels, and any other cost-saving measures. PEIA shall seek input from public employees, retirees, providers, and other interested parties on solutions to evaluate in the study. The actuarial study shall begin on or before July 1, 2023. A report on the study shall be presented to the Joint Committee on Government and Finance on or before July 1, 2024.

§5-16-32. Effective date of amendments.

The amendments made to this article during the 2023 regular session of the Legislature shall be incorporated into the plan beginning with plan year 2024.”

On motion of Delegate Summers, the amendment was amended on page 1, line 17, by inserting the following:

“‘Device’ means a blood glucose test strip, glucometer, continuous glucose monitor (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include insulin pumps.”;

And,

On page 32, line 1, by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

“(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2023 shall provide coverage for prescription insulin drugs and equipment pursuant to this section.”

And,

On page 32, line 13, on page 32, line 13, by striking new subsection (b) in its entirety and inserting a new subsection (b) to read as follows:

“(c) Cost sharing for a 30-day supply of a covered prescription insulin drug may not exceed \$35 in aggregate, including situations where the covered person is prescribed more than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill such covered person’s prescription. Cost sharing for a 30-day supply of covered device(s) may not exceed \$100 in aggregate, including situations where the covered person is prescribed more than one device, per 30-day supply. Each cost-share maximum is covered regardless of the person’s

deductible, copayment, coinsurance or any other cost-sharing requirement.

Delegates Skaff and Williams moved to amend the amendment on page 46, section 13, line 15 following the words “of this code” by inserting the following:

“or if the spouse’s employers plan is designed to pay less than seventy percent of the total cost of medical services for a standard population.”

Delegates Adkins, Barnhart, Dean, Dillon, Dittman, Foggin, Garcia, Gearheart, Holstein, Honaker, Hott, Householder, Howell, Kirby, Linville, Longanacre, Lucas, Martin, C. Pritt, E. Pritt, Reynolds, Ross, Rowe, Shamblin, Steele, Toney and Ward requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and did not excuse the Members from voting on the bill or amendments.

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

The yeas and nays having been ordered, they were taken (**Roll No. 463**), and there were—yeas 21, nays 74, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Dillon, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Toney, Vance, Walker, Williams and Young.

Absent and Not Voting*: Bridges, Fast, Ferrell, Storch and Westfall.

*Delegates Miller and Jeffries announced that their votes did not register and they are recorded as “nay”.

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

Delegates D. E. Pritt, Skaff, Fluharty, Walker, Hansen, Rowe, Williams, Griffith, Young, Pushkin, Garcia and Hornbuckle moved to amend the amendment on pages 45 and 46, section 13, beginning on line 8, following the words “entitled to participate” by striking out the period and the remainder of line 8, and all of lines 9 through line 25 on page 46, and inserting in lieu thereof the following:

“: *Provided*, That the spouse and dependent coverage is limited to excess or secondary coverage for each spouse and dependent who has primary coverage from any other source. For purposes of this section, the term "primary coverage" means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. For the purposes of this section, "dependent" includes an eligible employee's unmarried child or stepchild under the age of twenty-five if that child or stepchild meets the definition of a "qualifying child" or a "qualifying relative" in Section 152 of the Internal Revenue Code. The director may require proof regarding spouse and dependent primary coverage and shall adopt

rules governing the nature, discontinuance and resumption of any employee's coverage for his or her spouse and dependents.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 464**), and there were—yeas 20, nays 75, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Dillon, Fluharty, Foggin, Garcia, Griffith, Hansen, Hornbuckle, Kirby, Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Toney, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Chiarelli, Ferrell, Storch and Westfall.

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

Delegates Hansen, Skaff, Fluharty, Walker, Rowe, Williams, Griffith, Young, D. E. Pritt, Pushkin, Garcia and Hornbuckle moved to amend the bill on page 17, section 5, line 108, following the words “by that subsection” by striking out the period, inserting a colon and the following proviso:

“Provided, That the aggregate cost sharing percentage of 80 percent for the employer shall be exceeded to prevent any employee premium cost share being increased by more than 10% from the employee’s previous year’s costs.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 465**), and there were—yeas 24, nays 72, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Dillon, Dittman, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Marple, McGeehan,

Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Toney, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Ferrell, Storch and Westfall.

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

An amendment sponsored by Delegate Dean, was reported by the Clerk, on page 16, section 5, line 82, following the words “of the fiscal year” by inserting the following:

“The 80/20 premium implementation begins with the 2024 fiscal year plan.”

Delegate Dean asked and obtained unanimous consent that the amendment be reformed as follows:

Delegate Dean moves to amend the House Finance Committee amendment on page 16, section 5, line 82, following the words “of the fiscal year” by inserting the following:

“The 80/20 premium implementation begins with the 2025 fiscal year plan.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 466**), and there were—yeas 26, nays 68, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Dillon, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hanna, Hansen, Hornbuckle, Kirby, Marple, Martin, McGeehan, Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Ferrell, Hardy, Shamblin, Storch and Westfall.

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

Delegates Steele and Burkhammer moved to amend the amendment on page 24, line 163, by striking “Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 467**), and there were—yeas 82, nays 11, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pushkin, Rowe, Skaff, Statler, Walker and Williams.

Absent and Not Voting: Adkins, Bridges, Clark, Ferrell, Hardy, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

The Committee on Finance amendment, as amended, was then adopted.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 468**), and there were—yeas 69, nays 27, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Adkins, Dean, Dillon, Ellington, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Longanacre, Martin, McGeehan, Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Ferrell, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 268) passed.

On motion of Delegate Criss, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 258 – “A Bill to amend and reenact §5-16-2, §5-16-3, §5-16-4, §5-16-5, §5-16-7, §5-16-7b, §5-16-7c, §5-16-7g, §5-16-8, §5-16-9, §5-16-10, §5-16-11, §5-16-13, §5-16-14, §5-16-15, §5-16-16, §5-16-18, §5-16-23, §5-16-25, and §5-16-26 of the Code of West Virginia, 1931, as amended; to repeal §5-16-5b and §5-16-28 of said code; and to amend said code by adding thereto three new sections, designated §5-16-30, §5-16-31, and §5-16-32, all relating generally to the West Virginia Public Employees Insurance Act; providing definitions; removing antiquated reporting requirement; imposing fiduciary responsibility on finance board members and requiring training; providing requirements for actuarial opinions and financial plans; modifying levels of reimbursements to health care providers; modifying public hearing requirements; providing for the use of Governor’s revenue estimates; requiring director to provide certain information to the board; requiring that certain actuarial opinions and financial plans include, but not be limited to, the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, at a level of 80 percent for the employer and 20 percent for employees beginning with the plan year for fiscal year 2024; providing for retention of excess revenues; terminating the Post-July 1, 2010, Employee Trust Fund; removing limitations on benefits for certain services provided for autism spectrum disorder; moving certain provisions of law to other places within the code; modifying provisions relating to coverage for reconstructive surgery following mastectomies; modifying provisions relating to coverage for prescription insulin drugs; providing for health and wellness programs; require PEIA to use networks to provide care to members out of state; clarifying language allowing a PEIA plan to provide benefits for retired employees and their spouses and dependents; requiring employees to pay actuarial value of plan for spouse coverage in certain circumstances; requiring programs that qualify for favorable income tax treatment; providing for optional dental, optical, disability, and prepaid retirement plan, and audiology and hearing-aid service plans, and

preferred provider plans; providing for employers' payment of PEIA costs; providing for coverage of members of the Legislature; providing for reserve fund and quarterly reports; requiring an independent actuarial study of financial solvency of plan; and providing that amendments made to article shall be incorporated into the plan beginning with plan year 2024."

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

On this question, the yeas and nays were taken (**Roll No. 469**), and there were—yeas 72, nays 24, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Adkins, Dean, Dillon, Fluharty, Garcia, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Longanacre, McGeehan, Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Ferrell, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 268) takes effect from its passage.

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

At 12:53 p.m., the House of Delegates recessed until 1:30 p.m.

* * * * *

Afternoon Session

* * * * *

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

Com. Sub. for H. B. 2024, Budget Bill, making appropriations of public money out of the treasury in accordance with section

fifty-one, article six of the Constitution; on third reading, with the right to amend, was reported by the Clerk.

On motion of Delegate Criss, the bill was amended on page thirteen, line twelve, following the words “appropriation 76400)” and the comma, by striking out the word “and”;

On page fourteen, line thirteen, following the words “appropriation 89100)”, by inserting a comma and the following: “and Federal Funds/Grant Match – Surplus (fund 0105, appropriation 85700)”;

On page twenty-seven, line ten, following the words “for similar purposes” and the period, by inserting a new paragraph to read as follows: “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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.”;

On page thirty-six, line fifty-five, following the words “appropriation 88600)” and the comma, by striking out the word “and”;

On page thirty-six, line fifty-six, following the words “appropriation 93300)”, by inserting a comma and the following: “and Classroom Aide Program – Surplus (fund 0313, appropriation ###) ”;

On page forty-four, line five, following the words “Total.... \$673,296”, by inserting a new paragraph to read as follows: “Any unexpended balance remaining in the appropriation for Pregnancy Centers – Surplus (fund 0407, appropriation #####) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.”;

On page sixty, line sixteen, following the words “appropriation 76200)” and the comma, by striking out the word “and”;

On page sixty, line seventeen, following the words “appropriation 89501)” by inserting a comma and the following:

“and Victims of Crime Act – Surplus (fund 0546, appropriation #####)”;

And,

On page sixty-four, following line eleven, by inserting the following:

“79a – Division of Multimodal Transportation Facilities

(WV Code Chapter 17)

Fund 0580 FY 2023 Org 0810

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits – Surplus (fund 0580, appropriation 00100), Current Expenses (fund 0580, appropriation 13000), and BRIM Premium (fund 0580, appropriation 91300) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.”.

Delegates Rowe, Skaff, Fluharty, Walker, Hansen, Williams, Griffith, Young, D. E. Pritt, Pushkin, Garcia and Hornbuckle move to amend Com Sub for HB2024 on page 164, Item 325, by striking out lines 1 through 7 and inserting in lieu thereof, the following:

“Personal Services and

Employee Benefits.....	00100	\$ 641,932,089
Unclassified.....	09900	13,554,899
Current Expenses	13000	400,000,000
Repairs and Alterations.....	06400	1,000
Equipment	07000	1,000
Other Assets	69000	1,000
American Rescue Plan Low-		
income Assistance Program.....	XXXXX	<u>300,000,000</u>
Total.....		\$ 1,355,489,988

American Resource Plan Low-income Assistance Program monies are to be distributed among county commissions together with the Class IV municipalities in their counties, and Class I, Class II, and Class III municipalities. The Governor shall allocate

moneys to county commissions and municipalities based on the percentage share of families and individuals living below the federal poverty level in each respective jurisdiction as a proportional share of all persons living below the federal poverty line statewide. All funds allocated must be used by the recipient jurisdiction in compliance with 31 CFR Part 35 and ARPA Enumerated Use Expenditure Categories as set forth in Appendix 1 of U.S. Department of Treasury “Coronavirus State and Local Fiscal Recovery Funds: Compliance and Reporting Guidance;” and further at least fifty percent of the funds shall be used by each jurisdiction for purposes consistent with ARPA Enumerated Use Expenditure Categories 2.1 through 2.37 as set forth in Appendix 1 of U.S. Department of Treasury’s “Coronavirus State and Local Fiscal Recovery Funds: Compliance and Reporting Guidance.”

Speaker Pro Tempore Espinosa in the Chair

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

The yeas and nays having been ordered, they were taken (**Roll No. 470**), and there were—yeas 14, nays 80, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kirby, Longanacre, E. Pritt, Pushkin, Rowe, Skaff, Walker, Williams and Young.

Absent and Not Voting: Bridges, Ferrell, Steele, Storch, Westfall and Hanshaw (Mr. Speaker).

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

Delegates Rowe and Griffith moved to amend the bill on page 186, following the period at the end of line 12 of Sec 9. by inserting a new item #386, to read as follows

“386 - State Board of Education –

State Department of Education

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

Safe Schools.....	14300	<u>80,000,000</u>
Total.....		\$ 80,000,000”

And,

Renumbering subsequent items in Sec.9;

And,

To reconcile “Total TITLE II. Section 9 – General Revenue Surplus Accrued” located on page 198 and renumbering subsequent item numbers in the bill accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 471**), and there were—yeas 15, nays 76, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Clark, Fluharty, Garcia, Griffith, Hanna, Hansen, Holstein, Hornbuckle, Kirby, E. Pritt, Pushkin, Rowe, Skaff, Walker and Williams.

Absent and Not Voting: Anderson, Barnhart, Bridges, Ferrell, Steele, Storch, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

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

Delegates Skaff, Fluharty, Rowe, Walker, Hansen, Griffith, Williams, Young, D. E. Pritt, Pushkin, Garcia and Hornbuckle moved to amend the bill on page 187, Item 386, line 1, by striking out the number “80,000,000” and inserting in lieu thereof, the number “180,000,000.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 472**), and there were—yeas 18, nays 72, absent and not voting 10, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Dillon, Fluharty, Garcia, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Nestor, E. Pritt, Pushkin, Rowe, Skaff, Vance, Walker, Williams and Young.

Absent and Not Voting: Anderson, Barnhart, Bridges, Ferrell, Linville, Steele, Storch, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

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

Delegates Rowe, Skaff, Fluharty, Walker, Hansen, Williams, Griffith, Young, D. E. Pritt, Pushkin, Garcia and Hornbuckle moved to amend the bill on page 193, following the period at the end of Item 421, by inserting a new item #422, to read as follows:

422 Division of Environmental Protection

(W.V. Code Chapter 22)

Fund 0273 FY 2024 Org 0313

Reclamation of Abandoned

and Dilapidated Properties.....	xxxxxx	\$	<u>20,000,000</u>
Total.....			20,000,000

The above appropriation shall be deposited into the Reclamation of Abandoned and Dilapidated Properties Program Fund established pursuant to W.Va. Code §22-15A-30.”

And,

To reconcile “Total TITLE II. Section 9 – General Revenue Surplus Accrued” and renumbering subsequent item numbers in the bill accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 473**), and there were—yeas 15, nays 74, absent and not voting 11, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, W. Hall, Hanna, Hansen, Hillenbrand, Hornbuckle, E. Pritt, Pushkin, Rowe, Skaff, Walker, Williams and Young.

Absent and Not Voting: Anderson, Barnhart, Bridges, Ferrell, Linville, Reynolds, Steele, Storch, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

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

Delegate Young moved to amend the bill on page 193, following the period at the end of Item 421, by inserting a new item #422, to read as follows:

“422

1 - House of Delegates

Fund 0170 FY 2024 Org 2200

Capital Outlay, Repairs and

Equipment (R)	58900		<u>50,000</u>
Total.....		\$	50,000

From the above appropriation for (fund 0170 appropriation 58900 shall be used to install video broadcasting in the four House of Delegates Committee Rooms).”

And,

To reconcile “Total TITLE II. Section 9 – General Revenue Surplus Accrued” and renumbering subsequent item numbers in the bill accordingly.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 474**), and there were—yeas 40, nays 53, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Crouse, Dean, Dillon, Dittman, Fluharty, Garcia, Griffith, A. Hall, Hanna, Hansen, Hillenbrand, Honaker, Hornbuckle, Horst, Kirby, Kump, Linville, Longanacre, Lucas, Marple, McGeehan, Petitto, E. Pritt, Pushkin, Ross, Rowe, Skaff, Summers, Tully, Vance, Walker, Williams, Willis, Worrell and Young.

Absent and Not Voting: Bridges, Ferrell, Reynolds, Steele, Storch, Westfall and Hanshaw (Mr. Speaker).

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

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 475**), and there were—yeas 87, nays 7, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Dean, Dillon, Kirby, Longanacre, E. Pritt, Pushkin and Vance.

Absent and Not Voting: Bridges, Ferrell, Reynolds, Storch, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2024) passed.

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

On this question, the yeas and nays were taken (**Roll No. 476**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Bridges, Ferrell, W. Hall, Longanacre, Reynolds, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2024) takes effect from its passage.

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

Com. Sub. for S. B. 423, Increasing salary for certain state employees; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Mr. Speaker, Delegate Hanshaw in the Chair

An amendment was recommended by the Committee on Finance, and adopted, on page twelve, by striking out the following:

<u>Years</u>		<u>PAY GRADE</u>						
<u>Exp.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>2,237</u>	<u>2,258</u>	<u>2,300</u>	<u>2,353</u>	<u>2,406</u>	<u>2,469</u>	<u>2,501</u>	<u>2,574</u>
<u>1</u>	<u>2,269</u>	<u>2,291</u>	<u>2,332</u>	<u>2,385</u>	<u>2,439</u>	<u>2,502</u>	<u>2,533</u>	<u>2,607</u>
<u>2</u>	<u>2,302</u>	<u>2,323</u>	<u>2,365</u>	<u>2,418</u>	<u>2,471</u>	<u>2,534</u>	<u>2,566</u>	<u>2,639</u>
<u>3</u>	<u>2,334</u>	<u>2,356</u>	<u>2,398</u>	<u>2,451</u>	<u>2,504</u>	<u>2,567</u>	<u>2,599</u>	<u>2,672</u>
<u>4</u>	<u>2,367</u>	<u>2,389</u>	<u>2,430</u>	<u>2,483</u>	<u>2,536</u>	<u>2,600</u>	<u>2,631</u>	<u>2,706</u>
<u>5</u>	<u>2,400</u>	<u>2,421</u>	<u>2,463</u>	<u>2,516</u>	<u>2,569</u>	<u>2,632</u>	<u>2,664</u>	<u>2,738</u>
<u>6</u>	<u>2,432</u>	<u>2,454</u>	<u>2,497</u>	<u>2,549</u>	<u>2,602</u>	<u>2,665</u>	<u>2,697</u>	<u>2,771</u>
<u>7</u>	<u>2,466</u>	<u>2,486</u>	<u>2,529</u>	<u>2,581</u>	<u>2,634</u>	<u>2,698</u>	<u>2,729</u>	<u>2,804</u>
<u>8</u>	<u>2,499</u>	<u>2,519</u>	<u>2,562</u>	<u>2,614</u>	<u>2,667</u>	<u>2,730</u>	<u>2,762</u>	<u>2,836</u>
<u>9</u>	<u>2,531</u>	<u>2,552</u>	<u>2,595</u>	<u>2,648</u>	<u>2,700</u>	<u>2,763</u>	<u>2,794</u>	<u>2,869</u>

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JOURNAL OF THE

[March 4

<u>10</u>	<u>2,564</u>	<u>2,585</u>	<u>2,627</u>	<u>2,680</u>	<u>2,732</u>	<u>2,797</u>	<u>2,828</u>	<u>2,902</u>
<u>11</u>	<u>2,597</u>	<u>2,618</u>	<u>2,660</u>	<u>2,713</u>	<u>2,765</u>	<u>2,829</u>	<u>2,861</u>	<u>2,934</u>
<u>12</u>	<u>2,629</u>	<u>2,651</u>	<u>2,692</u>	<u>2,746</u>	<u>2,799</u>	<u>2,862</u>	<u>2,893</u>	<u>2,967</u>
<u>13</u>	<u>2,662</u>	<u>2,683</u>	<u>2,725</u>	<u>2,778</u>	<u>2,831</u>	<u>2,894</u>	<u>2,926</u>	<u>3,000</u>
<u>14</u>	<u>2,695</u>	<u>2,716</u>	<u>2,758</u>	<u>2,811</u>	<u>2,864</u>	<u>2,927</u>	<u>2,959</u>	<u>3,032</u>
<u>15</u>	<u>2,727</u>	<u>2,749</u>	<u>2,790</u>	<u>2,843</u>	<u>2,896</u>	<u>2,960</u>	<u>2,991</u>	<u>3,065</u>
<u>16</u>	<u>2,760</u>	<u>2,781</u>	<u>2,823</u>	<u>2,876</u>	<u>2,929</u>	<u>2,992</u>	<u>3,024</u>	<u>3,098</u>
<u>17</u>	<u>2,792</u>	<u>2,814</u>	<u>2,857</u>	<u>2,909</u>	<u>2,962</u>	<u>3,025</u>	<u>3,057</u>	<u>3,131</u>
<u>18</u>	<u>2,825</u>	<u>2,847</u>	<u>2,889</u>	<u>2,941</u>	<u>2,994</u>	<u>3,058</u>	<u>3,089</u>	<u>3,164</u>
<u>19</u>	<u>2,859</u>	<u>2,879</u>	<u>2,922</u>	<u>2,974</u>	<u>3,027</u>	<u>3,090</u>	<u>3,122</u>	<u>3,196</u>
<u>20</u>	<u>2,891</u>	<u>2,912</u>	<u>2,955</u>	<u>3,008</u>	<u>3,060</u>	<u>3,123</u>	<u>3,155</u>	<u>3,230</u>
<u>21</u>	<u>2,924</u>	<u>2,944</u>	<u>2,987</u>	<u>3,040</u>	<u>3,092</u>	<u>3,156</u>	<u>3,187</u>	<u>3,264</u>
<u>22</u>	<u>2,957</u>	<u>2,978</u>	<u>3,020</u>	<u>3,073</u>	<u>3,125</u>	<u>3,189</u>	<u>3,221</u>	<u>3,296</u>
<u>23</u>	<u>2,989</u>	<u>3,011</u>	<u>3,053</u>	<u>3,106</u>	<u>3,159</u>	<u>3,223</u>	<u>3,255</u>	<u>3,330</u>
<u>24</u>	<u>2,237</u>	<u>2,258</u>	<u>2,300</u>	<u>2,353</u>	<u>2,406</u>	<u>2,469</u>	<u>2,501</u>	<u>2,574</u>
<u>25</u>	<u>2,269</u>	<u>2,291</u>	<u>2,332</u>	<u>2,385</u>	<u>2,439</u>	<u>2,502</u>	<u>2,533</u>	<u>2,607</u>
<u>26</u>	<u>2,302</u>	<u>2,323</u>	<u>2,365</u>	<u>2,418</u>	<u>2,471</u>	<u>2,534</u>	<u>2,566</u>	<u>2,639</u>
<u>27</u>	<u>2,334</u>	<u>2,356</u>	<u>2,398</u>	<u>2,451</u>	<u>2,504</u>	<u>2,567</u>	<u>2,599</u>	<u>2,672</u>
<u>28</u>	<u>2,367</u>	<u>2,389</u>	<u>2,430</u>	<u>2,483</u>	<u>2,536</u>	<u>2,600</u>	<u>2,631</u>	<u>2,706</u>
<u>29</u>	<u>2,400</u>	<u>2,421</u>	<u>2,463</u>	<u>2,516</u>	<u>2,569</u>	<u>2,632</u>	<u>2,664</u>	<u>2,738</u>
<u>30</u>	<u>2,432</u>	<u>2,454</u>	<u>2,497</u>	<u>2,549</u>	<u>2,602</u>	<u>2,665</u>	<u>2,697</u>	<u>2,771</u>
<u>31</u>	<u>2,466</u>	<u>2,486</u>	<u>2,529</u>	<u>2,581</u>	<u>2,634</u>	<u>2,698</u>	<u>2,729</u>	<u>2,804</u>
<u>32</u>	<u>2,499</u>	<u>2,519</u>	<u>2,562</u>	<u>2,614</u>	<u>2,667</u>	<u>2,730</u>	<u>2,762</u>	<u>2,836</u>
<u>33</u>	<u>2,531</u>	<u>2,552</u>	<u>2,595</u>	<u>2,648</u>	<u>2,700</u>	<u>2,763</u>	<u>2,794</u>	<u>2,869</u>
<u>34</u>	<u>2,564</u>	<u>2,585</u>	<u>2,627</u>	<u>2,680</u>	<u>2,732</u>	<u>2,797</u>	<u>2,828</u>	<u>2,902</u>
<u>35</u>	<u>2,597</u>	<u>2,618</u>	<u>2,660</u>	<u>2,713</u>	<u>2,765</u>	<u>2,829</u>	<u>2,861</u>	<u>2,934</u>
<u>36</u>	<u>2,629</u>	<u>2,651</u>	<u>2,692</u>	<u>2,746</u>	<u>2,799</u>	<u>2,862</u>	<u>2,893</u>	<u>2,967</u>

2023]

HOUSE OF DELEGATES

1847

<u>37</u>	<u>2,662</u>	<u>2,683</u>	<u>2,725</u>	<u>2,778</u>	<u>2,831</u>	<u>2,894</u>	<u>2,926</u>	<u>3,000</u>
<u>38</u>	<u>2,695</u>	<u>2,716</u>	<u>2,758</u>	<u>2,811</u>	<u>2,864</u>	<u>2,927</u>	<u>2,959</u>	<u>3,032</u>
<u>39</u>	<u>2,727</u>	<u>2,749</u>	<u>2,790</u>	<u>2,843</u>	<u>2,896</u>	<u>2,960</u>	<u>2,991</u>	<u>3,065</u>
<u>40</u>	<u>2,760</u>	<u>2,781</u>	<u>2,823</u>	<u>2,876</u>	<u>2,929</u>	<u>2,992</u>	<u>3,024</u>	<u>3,098</u>

And inserting in lieu thereof the following:

Years

PAY GRADE

<u>Exp.</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>2,237</u>	<u>2,258</u>	<u>2,300</u>	<u>2,353</u>	<u>2,406</u>	<u>2,469</u>	<u>2,501</u>	<u>2,574</u>
<u>1</u>	<u>2,269</u>	<u>2,291</u>	<u>2,332</u>	<u>2,385</u>	<u>2,439</u>	<u>2,502</u>	<u>2,533</u>	<u>2,607</u>
<u>2</u>	<u>2,302</u>	<u>2,323</u>	<u>2,365</u>	<u>2,418</u>	<u>2,471</u>	<u>2,534</u>	<u>2,566</u>	<u>2,639</u>
<u>3</u>	<u>2,334</u>	<u>2,356</u>	<u>2,398</u>	<u>2,451</u>	<u>2,504</u>	<u>2,567</u>	<u>2,599</u>	<u>2,672</u>
<u>4</u>	<u>2,367</u>	<u>2,389</u>	<u>2,430</u>	<u>2,483</u>	<u>2,536</u>	<u>2,600</u>	<u>2,631</u>	<u>2,706</u>
<u>5</u>	<u>2,400</u>	<u>2,421</u>	<u>2,463</u>	<u>2,516</u>	<u>2,569</u>	<u>2,632</u>	<u>2,664</u>	<u>2,738</u>
<u>6</u>	<u>2,432</u>	<u>2,454</u>	<u>2,497</u>	<u>2,549</u>	<u>2,602</u>	<u>2,665</u>	<u>2,697</u>	<u>2,771</u>
<u>7</u>	<u>2,466</u>	<u>2,486</u>	<u>2,529</u>	<u>2,581</u>	<u>2,634</u>	<u>2,698</u>	<u>2,729</u>	<u>2,804</u>
<u>8</u>	<u>2,499</u>	<u>2,519</u>	<u>2,562</u>	<u>2,614</u>	<u>2,667</u>	<u>2,730</u>	<u>2,762</u>	<u>2,836</u>
<u>9</u>	<u>2,531</u>	<u>2,552</u>	<u>2,595</u>	<u>2,648</u>	<u>2,700</u>	<u>2,763</u>	<u>2,794</u>	<u>2,869</u>
<u>10</u>	<u>2,564</u>	<u>2,585</u>	<u>2,627</u>	<u>2,680</u>	<u>2,732</u>	<u>2,797</u>	<u>2,828</u>	<u>2,902</u>
<u>11</u>	<u>2,597</u>	<u>2,618</u>	<u>2,660</u>	<u>2,713</u>	<u>2,765</u>	<u>2,829</u>	<u>2,861</u>	<u>2,934</u>
<u>12</u>	<u>2,629</u>	<u>2,651</u>	<u>2,692</u>	<u>2,746</u>	<u>2,799</u>	<u>2,862</u>	<u>2,893</u>	<u>2,967</u>
<u>13</u>	<u>2,662</u>	<u>2,683</u>	<u>2,725</u>	<u>2,778</u>	<u>2,831</u>	<u>2,894</u>	<u>2,926</u>	<u>3,000</u>
<u>14</u>	<u>2,695</u>	<u>2,716</u>	<u>2,758</u>	<u>2,811</u>	<u>2,864</u>	<u>2,927</u>	<u>2,959</u>	<u>3,032</u>
<u>15</u>	<u>2,727</u>	<u>2,749</u>	<u>2,790</u>	<u>2,843</u>	<u>2,896</u>	<u>2,960</u>	<u>2,991</u>	<u>3,065</u>
<u>16</u>	<u>2,760</u>	<u>2,781</u>	<u>2,823</u>	<u>2,876</u>	<u>2,929</u>	<u>2,992</u>	<u>3,024</u>	<u>3,098</u>
<u>17</u>	<u>2,792</u>	<u>2,814</u>	<u>2,857</u>	<u>2,909</u>	<u>2,962</u>	<u>3,025</u>	<u>3,057</u>	<u>3,131</u>

<u>18</u>	<u>2,825</u>	<u>2,847</u>	<u>2,889</u>	<u>2,941</u>	<u>2,994</u>	<u>3,058</u>	<u>3,089</u>	<u>3,164</u>
<u>19</u>	<u>2,859</u>	<u>2,879</u>	<u>2,922</u>	<u>2,974</u>	<u>3,027</u>	<u>3,090</u>	<u>3,122</u>	<u>3,196</u>
<u>20</u>	<u>2,891</u>	<u>2,912</u>	<u>2,955</u>	<u>3,008</u>	<u>3,060</u>	<u>3,123</u>	<u>3,155</u>	<u>3,230</u>
<u>21</u>	<u>2,924</u>	<u>2,944</u>	<u>2,987</u>	<u>3,040</u>	<u>3,092</u>	<u>3,156</u>	<u>3,187</u>	<u>3,264</u>
<u>22</u>	<u>2,957</u>	<u>2,978</u>	<u>3,020</u>	<u>3,073</u>	<u>3,125</u>	<u>3,189</u>	<u>3,221</u>	<u>3,296</u>
<u>23</u>	<u>2,989</u>	<u>3,011</u>	<u>3,053</u>	<u>3,106</u>	<u>3,159</u>	<u>3,223</u>	<u>3,255</u>	<u>3,330</u>
<u>24</u>	<u>3,022</u>	<u>3,043</u>	<u>3,085</u>	<u>3,138</u>	<u>3,191</u>	<u>3,257</u>	<u>3,288</u>	<u>3,364</u>
<u>25</u>	<u>3,055</u>	<u>3,076</u>	<u>3,118</u>	<u>3,171</u>	<u>3,225</u>	<u>3,289</u>	<u>3,322</u>	<u>3,396</u>
<u>26</u>	<u>3,087</u>	<u>3,109</u>	<u>3,150</u>	<u>3,205</u>	<u>3,259</u>	<u>3,323</u>	<u>3,354</u>	<u>3,430</u>
<u>27</u>	<u>3,120</u>	<u>3,141</u>	<u>3,183</u>	<u>3,237</u>	<u>3,291</u>	<u>3,355</u>	<u>3,388</u>	<u>3,463</u>
<u>28</u>	<u>3,153</u>	<u>3,174</u>	<u>3,217</u>	<u>3,271</u>	<u>3,325</u>	<u>3,389</u>	<u>3,422</u>	<u>3,497</u>
<u>29</u>	<u>3,185</u>	<u>3,208</u>	<u>3,250</u>	<u>3,303</u>	<u>3,358</u>	<u>3,423</u>	<u>3,454</u>	<u>3,531</u>
<u>30</u>	<u>3,219</u>	<u>3,240</u>	<u>3,284</u>	<u>3,337</u>	<u>3,391</u>	<u>3,455</u>	<u>3,488</u>	<u>3,564</u>
<u>31</u>	<u>3,252</u>	<u>3,274</u>	<u>3,318</u>	<u>3,371</u>	<u>3,425</u>	<u>3,489</u>	<u>3,522</u>	<u>3,597</u>
<u>32</u>	<u>3,286</u>	<u>3,307</u>	<u>3,350</u>	<u>3,404</u>	<u>3,457</u>	<u>3,523</u>	<u>3,554</u>	<u>3,631</u>
<u>33</u>	<u>3,320</u>	<u>3,340</u>	<u>3,384</u>	<u>3,438</u>	<u>3,491</u>	<u>3,555</u>	<u>3,588</u>	<u>3,664</u>
<u>34</u>	<u>3,352</u>	<u>3,374</u>	<u>3,418</u>	<u>3,472</u>	<u>3,525</u>	<u>3,589</u>	<u>3,622</u>	<u>3,697</u>
<u>35</u>	<u>3,386</u>	<u>3,408</u>	<u>3,450</u>	<u>3,504</u>	<u>3,557</u>	<u>3,623</u>	<u>3,655</u>	<u>3,731</u>
<u>36</u>	<u>3,420</u>	<u>3,441</u>	<u>3,484</u>	<u>3,538</u>	<u>3,592</u>	<u>3,656</u>	<u>3,689</u>	<u>3,763</u>
<u>37</u>	<u>3,452</u>	<u>3,475</u>	<u>3,518</u>	<u>3,572</u>	<u>3,626</u>	<u>3,690</u>	<u>3,722</u>	<u>3,797</u>
<u>38</u>	<u>3,486</u>	<u>3,507</u>	<u>3,550</u>	<u>3,604</u>	<u>3,658</u>	<u>3,723</u>	<u>3,755</u>	<u>3,831</u>
<u>39</u>	<u>3,520</u>	<u>3,541</u>	<u>3,584</u>	<u>3,638</u>	<u>3,692</u>	<u>3,756</u>	<u>3,789</u>	<u>3,863</u>
<u>40</u>	<u>3,552</u>	<u>3,575</u>	<u>3,617</u>	<u>3,671</u>	<u>3,726</u>	<u>3,790</u>	<u>3,822</u>	<u>3,897</u>

On motion of Delegate Criss, the bill was amended on page three, section five, line forty-four, following the Roman numeral “VI”, by striking out the numbers “65,242 67,524” and inserting in lieu thereof the numbers “65,242 67,542”.

Delegate Foggin moved to amend the bill on page 9, line 10, by striking subsections (c) and (d) and re-lettering the remaining subsections accordingly.

Delegates Barnhart, Dillon, Dittman, Foggin, Longanacre, E. Pritt, Shamblin and Toney requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and did not excuse the Members from voting on the bill or amendments.

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

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected and did not excuse the Member from voting.

The question being on the adoption of the amendment, the same was put and did not prevail.

Delegate Foggin moved to amend the bill on page 9, line 17, after the period by inserting the following, “Math instruction includes a teacher providing physics and chemistry instruction.”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 477**), and there were—yeas 15, nays 79, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Butler, Dean, Dillon, Foggin, W. Hall, Kirby, Kump, E. Pritt, Pushkin, Ross, Rowe, Steele, Vance, Walker and Williams.

Absent and Not Voting: Bridges, Ferrell, Hott, Reynolds, Storch and Westfall.

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

Delegate Foggin moved to amend the bill on page 9, line 19 after the word, “Superintendent,” by inserting the words, “or licensed as a speech language pathologist”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 478**), and there were—yeas 25, nays 68, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Brooks, Butler, Dean, Dillon, Fluharty, Foggin, Garcia, A. Hall, Hansen, Hornbuckle, Kirby, Kump, Marple, Martin, Nestor, E. Pritt, Pushkin, Ross, Rowe, Skaff, Vance, Walker, Williams, Willis and Young.

Absent and Not Voting: Bridges, Ferrell, Hornby, Hott, Reynolds, Storch and Westfall.

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

Delegates Fluharty, Skaff, Hansen, Walker, Rowe, Williams, Griffith, Young, D. E. Pritt, Pushkin, Garcia and Hornbuckle move to amend the bill on page 6, Section 5, line 126, following the period, by inserting a new subsection to read as follows:

“(k) The raise effective July 1, 2023 shall be increased uniformly for all employees, effective July 1, 2024, in the amount of \$2,300.”;

And,

On page 11, Section 2, line 53, following the period, by inserting a new subsection to read as follows:

“(f) The raise effective July 1, 2023 shall be increased uniformly for all employees, effective July 1, 2024, in the amount of \$2,300.”;

And,

On page 21, Section 8a, line 197, by inserting a new subsection to read as follows:

“(n) The raise effective July 1, 2023 shall be increased uniformly for all employees, effective July 1, 2024, in the amount of \$2,300.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 479**), and there were—yeas 18, nays 74, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kirby, Kump, Longanacre, E. Pritt, Pushkin, Ross, Rowe, Skaff, Vance, Walker, Williams and Young.

Absent and Not Voting*: Bridges, Ferrell, Hott, Reynolds, Ridenour, Storch, Street and Westfall.

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

*Delegate Warner announced that her vote did not register and she is recorded as “nay”.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 480**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Hott, Reynolds, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 423) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 481**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Hott, Reynolds, Storch, Warner and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 423) takes effect July 1, 2023.

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2526, Relating to reducing the personal income tax.

Delegate Householder asked unanimous consent that the bill be taken up for immediate consideration, which consent was not granted, objection being heard.

Whereupon,

On motion of Delegate Householder, the bill was taken up for immediate consideration.

Delegate Householder moved that the House concur in the following amendment of the bill by the Senate:

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

**“ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX
ADJUSTMENT ACT.**

§11-13MM-1. Findings and Purpose

(a) This article shall be known and cited as the West Virginia Property Tax Adjustment Act.

(b) The Legislature finds that the encouragement of economic growth and development in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage capital investment in business and industry in this state and thereby increase economic development, there is hereby provided certain tax credits against the taxes imposed under §11-21-1 et seq. of this code, or against the tax imposed under §11-24-1 et seq. of this code based upon the amount of property tax timely paid on certain property subject to *ad valorem* property taxation.

§11-13MM-2. Definitions.

(a) *General.* — When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used.

(b) *Terms defined.* —

(1) ‘*Ad valorem* property tax’ means and is limited to the West Virginia *ad valorem* property tax.

(2) ‘Business’ means any activity taxable under article §11-12-1 et seq. of this code, which is engaged in by any person in this State.

(3) ‘Disabled veteran taxpayer’ means a person honorable discharged from any branch of the armed services of the United States and who is considered at least ninety percent totally and permanently disabled due solely to service-connected disabilities by the Department of Veterans Affairs.

(4) ‘Eligible motor vehicle’ means a motor vehicle on which the *ad valorem* property tax has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined in this article.

(5) ‘Flow-through entity,’ ‘conduit entity,’ or ‘pass through entity’ means an S Corporation, partnership, limited partnership, limited liability partnership, or limited liability company. The term ‘flow-through entity,’ ‘conduit entity,’ or ‘pass through entity’ includes a publicly traded partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 USC §781: *Provided*, That a publicly traded partnership as defined in section 7704 of the Internal Revenue Code having equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 USC §781, and any other person or entity that is treated as a C corporation for federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et seq.* of this code for purposes of this article.

(6) ‘Motor Vehicle’ means the following class of vehicles defined in §17A-10-1 of this code: Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility terrain vehicles as defined in §20-15-2 of this code.

(7) ‘Person’ means and includes an individual, a trust, estate, partnership, pass through entity, association, company, or corporation.

(8) ‘Personal property’ shall have the same meaning as in §11-5-1 *et seq.* of this code: *Provided*: That, for the purposes of this article, the term ‘personal property’ shall not include a working interest in any oil, natural gas, or natural gas liquid producing property or any property of a public service company.

(9) ‘Personal property taxes paid’ means the aggregate of regular levies, excess levies and bond levies extended against personal property that are paid during the calendar year and

determined after any application of any discount for early payment of taxes. 'Personal property taxes paid' does not include any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of 'back tax' *ad valorem* property taxes, or any penalty or interest for late payment of property taxes.

(10) 'Public service company' means a corporation or other business entity which delivers services considered essential to the public interest that are regulated by the applicable federal or state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas, telecommunications, and water, and those transporting personal property or passengers, including, but not limited to, airlines, railroads, trucking, and bus companies, and which are centrally assessed by the state for property tax purposes.

(11) 'Real property taxes paid' means the aggregate of regular levies, excess levies and bond levies that are paid during the calendar year and determined after any application of any discount for early payment of taxes. 'Real property taxes paid' does not include any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of 'back tax' *ad valorem* property taxes, or any penalty or interest for late payment of property taxes.

§11-13MM-3. Motor vehicle property tax adjustment credit.

(a) *Credit allowed.* — There shall be allowed to every eligible taxpayer a credit, as determined under this section, against the tax imposed under §11-21-1 *et seq.* of this code, or against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

(b) '*Eligible taxpayer*' defined.—

(1) 'Eligible taxpayer' – Owned motor vehicles — 'Eligible taxpayer' means any person who owns a motor vehicle for which the *ad valorem* property tax has been paid during the corporation net income tax taxable year or the personal income tax taxable year, as applicable. For purposes of this definition, ownership of a motor

vehicle includes ownership and possession of a motor vehicle for which a title has been issued by the Division of Motor Vehicles to the eligible taxpayer. For purposes of this definition, ownership of a motor vehicle also includes ownership and possession of a motor vehicle, subject to a purchase financing arrangement whereby a financial institution holds a lien on the motor vehicle, or for which ultimate issuance of title by the Division of Motor Vehicles to the taxpayer, as owner of the motor vehicle, is contingent upon payment in full of the purchase price of the motor vehicle pursuant to an installment payment financing arrangement.

(2) ‘Eligible taxpayer’ – Leased motor vehicles — ‘Eligible taxpayer’ also means and includes any lessor of a motor vehicle, as herein defined, who owns a motor vehicle for which the *ad valorem* property tax has been paid during the corporation net income tax taxable year or the personal income tax taxable year, as applicable: *Provided, That, the lessor shall pass on to the lessee the value of the tax credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment payable by the lessee on the leased motor vehicle.*

(3) ‘Eligible taxpayer’ – Pass through entities — ‘Eligible taxpayer’ also means and includes any owner, interest holder, partner or S corporation shareholder that derives conduit income from a pass-through entity.

(4) ‘Eligible taxpayer’ – Prohibition for motor vehicle dealers — ‘Eligible taxpayer’ does not mean or include any motor vehicle dealer, motor vehicle dealership, retailer or any business that sells new or used motor vehicles at the retail level, other than a lessor of motor vehicles. In circumstances where any such motor vehicle dealer, motor vehicle dealership, retailer or business that sells new or used motor vehicles at the retail level is engaged in both retail sales of motor vehicles, and leasing of motor vehicles as lessor, the tax credit authorized by this article may only be asserted by such business based upon the *ad valorem* property tax paid on leased motor vehicles, and only to the extent that the lessor has passed on, to the lessee, the value of the tax credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment payable by the lessee on the leased motor vehicle. No credit may

be asserted or applied by the business based upon *ad valorem* property tax paid on motor vehicle retail inventories, not actively leased to lessees. To the extent that motor vehicle retail inventories may be held as both motor vehicle retail inventories, and as motor vehicles potentially subject to lease during the taxable year, *ad valorem* property tax paid on such motor vehicles is excluded from eligibility for the tax credit authorized by this article.

(c) *Amount of credit.* – The amount of credit allowed under this article to the eligible taxpayer is the amount of West Virginia *ad valorem* property tax timely paid during the personal income taxable year or the corporation net income tax taxable year, as applicable, to a county sheriff on the value of a motor vehicle owned by the eligible taxpayer: *Provided*, That in no case shall any credit be allowed under this article for any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of ‘back tax’ *ad valorem* property taxes.

(d) *Application of credit against personal income tax and corporation net income tax.* –

(1) Personal income tax – If the eligible taxpayer is subject to the personal income tax imposed by §11-21-1 *et seq.* of this code, the amount of credit allowed shall be taken against the personal income tax liability of the eligible taxpayer for the current personal income tax taxable year.

(2) Corporation net income tax — If the eligible taxpayer is subject to the corporation net income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be taken against the corporation net income tax liability of the eligible taxpayer for the current corporation net income tax taxable year.

(e) *Refundable portion of annual credit allowance.* — If annual tax credit allowed under this article exceeds the amount of personal income tax or corporation net income tax, as applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

(f) *Transfer or sale of the motor vehicle.* —

(1) Where there is a sale or transfer of the motor vehicle from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax credit authorized under this article for the timely paid *ad valorem* property tax paid by the transferor in the transferor's personal income tax taxable year or corporation net income tax taxable year, as applicable, on the transferred motor vehicle.

(2) If the transferee meets all requirements for qualification as an eligible taxpayer under this article and meets all requirements for entitlement to the tax credit authorized under this article, then the transferee shall be entitled to the tax credit authorized under this article for the timely paid *ad valorem* property tax paid by the transferee in the transferee's personal income tax taxable year or corporation net income tax taxable year, as applicable on the eligible motor vehicle.

(3) In no case shall the transferor and the transferee take the tax credit authorized under this article for the same taxable year.

(g) *Annual schedule.* — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section. For purposes of asserting the credit against tax, the taxpayer shall prepare and file an annual schedule showing the amount of personal income tax paid for the taxable year, and the amount of property tax paid on the motor vehicle for the taxable year, and the amount of credit allowed under this article. The annual schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.

§11-13MM-4. Disabled veteran real property tax credit.

(a) *Credit allowed.* — Disabled veterans may receive a tax credit against the tax imposed under §11-21-1 *et seq.* of this code in the amount of West Virginia *ad valorem* property tax timely paid on his or her homestead during the personal income taxable year.

(b) Amount of credit. — Any homeowner meeting the definition of a disabled veteran under this article, shall be allowed a refundable credit against the taxes imposed by §11-21-1 et seq. of this code equal to the amount of West Virginia ad valorem real property taxes timely paid a county sheriff on a homestead which is used or occupied exclusively for residential purposes, as those terms are defined in §11-6B-2, during the personal income taxable year: Provided, That in no case shall any credit be allowed under this article for any untimely real property tax paid, or any payment of delinquent real property tax, or payment of ‘back tax’ real property taxes.

(c) Application of credit against personal income tax. — The amount of credit allowed under this section shall be taken against the personal income tax liability, imposed by article §11-21-1 et seq. of this code, of the eligible taxpayer.

(d) Refundable portion of annual credit allowance. — If annual tax credit allowed under this article exceeds the amount of personal income tax subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

(e) Termination of tax credit. — Any tax credit approved in accordance with the provisions of this section shall terminate immediately when any of the following events occur:

(1) The death of the owner of the property for which the tax credit was authorized;

(2) The sale of the property for which the tax credit was approved; or

(3) A determination by the assessor that the property for which the tax credit was approved no longer qualifies for the tax credit in accordance with the provisions of this section.

(f) Forms and instructions. — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section.

§11-13MM-5. Small business property tax adjustment credit.

(a) Credit allowed. — There shall be allowed to every eligible small business taxpayer a credit, as determined under this section, against the tax imposed under §11-21-1 et seq. of this code, or against the tax imposed under §11-24-1 et seq. of this code, as applicable.

(b) Definitions – The following definitions apply to this section:

(1) ‘Aggregate appraised value’ means the true and actual value of all property in the state owned by the eligible taxpayer including the true and actual value of all property of any related entity;

(2) ‘Related entity’ means:

(A) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by the taxpayer;

(B) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer;

(C) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by an individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this section, ‘control’, with respect to a corporation, means ownership, directly or indirectly, of stock possessing fifty percent or more of the total combined voting power of all classes of the stock of the corporation which entitles its owner to vote. ‘Control’, with respect to a trust, means ownership, directly or indirectly, of fifty percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a

corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) of the United States Internal Revenue Code, as amended: *Provided*, That paragraph (3) of section 267(c) of the United States Internal Revenue Code shall not apply.

(3) ‘*Small business*’ means a business with personal property located in this state with an aggregate appraised value of \$1 million or less; *Provided*, That, for the purposes of this section, ‘small business’ does not include any person holding a working interest in any oil, natural gas, or natural gas liquid producing property or any public service company that is centrally assessed by the state for property tax purposes.

(c) *Amount of credit*. — The amount of credit allowed pursuant to this article to the eligible small business taxpayer is 50% of the amount of West Virginia *ad valorem* property tax due and owing and timely paid to a county sheriff by the eligible taxpayer on personal property, as that term is defined in this article: *Provided*, That in no case shall any credit be allowed under this article for any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of ‘back tax’ *ad valorem* property taxes.

(d) *Application of credit against personal income tax and corporation net income tax*. — The amount of credit determined under this section is allowed as a credit against 100 percent of that portion of the taxpayer’s state income tax liability and applied as provided in subsections (1) and (2), and in that order.

(1) Corporation net income taxes. — If the eligible taxpayer is subject to the corporation net income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be taken against the corporation net income tax liability of the eligible taxpayer for the current corporation net income tax taxable year.

(2) Personal income taxes. — If the small business taxpayer is an electing small business corporation, as defined in section 1361 of the United States Internal Revenue Code, a partnership, a limited

liability company that is treated as a partnership for federal income tax purposes, or a sole proprietorship, then any unused credit is allowed as a credit against the taxes imposed by §11-21-1 et seq. of this code.

(3) Electing small business corporations, limited liability companies treated as partnerships for federal income tax purposes, partnerships, and other unincorporated organizations shall allocate the credit allowed by this article among its members in the same manner as profits and losses are allocated for the taxable year.

(4) No credit is allowed under this section against any employer withholding taxes imposed by §11-21-1 et seq. of this code.

(e) *Refundable portion of annual credit allowance.* — If the annual tax credit allowed under this article exceeds the amount of personal income tax or corporation net income tax, as applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

(f) *Annual schedule.* — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section. For purposes of asserting the credit against tax, the taxpayer shall prepare and file an annual schedule showing the amount of personal income tax paid for the taxable year, and the amount of property tax paid on the personal property subject to *ad valorem* property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this State, as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The annual schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.

§11-13MM-6. Rulemaking.

The Tax Commissioner may promulgate such interpretive, legislative, and procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of §11-13MM-1 et seq. of this code and to implement the intent of the Legislature. All rules

shall be promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

§11-13MM-7. Annual Reports.

The Tax Commissioner shall make an annual report, as soon as possible after the close of each tax year, of the actions taken by the West Virginia Tax Division with respect to the tax credits authorized pursuant to this article. This report shall be filed with the Joint Committee on Government and Finance. The report shall include at a minimum the amount of the credit claimed in the preceding tax year in each of the categories set forth in this article. Information set forth in the report shall be subject to the confidentiality restrictions of §11-10-1 *et seq.* of this code, and shall be redated and otherwise formatted and presented so as to preserve the confidentiality of taxpayers and tax information.

11-13MM-8. Tax administration and procedures.

(a) Each and every provision of the ‘West Virginia Tax Procedure and Administration Act’ set forth in §11-10-1 *et seq.* of this code applies to the tax credits allowed under §11-13MM-1 *et seq.* of this code, except as otherwise expressly provided in this article, with like effect as if that act were applicable only to the tax credit allowed by §11-13MM-1 *et seq.* of this code and were set forth *in extenso* in this article.

(b) Each and every provision of the ‘West Virginia Tax Crimes and Penalties Act’ set forth in §11-9-1 *et seq.* of this code applies to the tax credit allowed by §11-13MM-1 *et seq.* of this code with like effect as if that act were applicable only to the tax credit §11-13MM-1 *et seq.* of this code and were set forth *in extenso* in this article.

§ 11-13MM-9. Severability.

(a) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is for any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not affect, impair, or invalidate the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined in its operation to the provision thereof

directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances may not be affected thereby.

(b) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is made invalid or inapplicable by reason of the repeal or any other invalidation of any statute therein addressed or referred to, such invalidation or inapplicability may not affect, impair, or invalidate the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined in its operation to the provision thereof directly involved with, pertaining to, addressing, or referring to the statute, and the application of the provision with regard to other statutes or in other instances not affected by any such repealed or invalid statute may not be abrogated or diminished in any way.

§11-13MM-10. Effective Date.

This article shall be effective for personal income taxable years beginning on or after January 1, 2024, and for corporation net income tax taxable years beginning on or after January 1, 2024. Subject to the restrictions, limitations and requirements set forth in this article, *ad valorem* property tax timely paid in the personal income tax taxable year, or the corporation net income tax taxable year, as applicable, beginning on or after January 1, 2024, may qualify for the tax credits specified in this article.

ARTICLE 21. PERSONAL INCOME TAX

§11-21-4g Rate of tax — Taxable years beginning on and after January 1, 2023.

(a) *Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, and estates and trusts.* — The tax imposed by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the

taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

If the West Virginia taxable income is:

The tax is:

<u>Not over \$10,000</u>	<u>2.36% of the taxable income</u>
<u>Over \$10,000 but not over \$25,00</u>	<u>\$236 plus 3.15% of excess over \$10,000</u>
<u>Over \$25,000 but not over \$40,000</u>	<u>\$708.50 plus 3.54% of excess over \$25,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,239.50 plus 4.72% of excess over \$40,000</u>
<u>Over \$60,000</u>	<u>\$2,183.50 plus 5.12% of excess over \$60,000</u>

(b) Rate of tax on married individuals filing separate returns.
— In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-3 of this code on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

If the West Virginia taxable income is:

The tax is:

<u>Not over \$5,000</u>	<u>2.36% of the taxable income</u>
<u>Over \$5,000 but not over \$12,500</u>	<u>\$118 plus 3.15% of excess over \$5,000</u>
<u>Over \$12,500 but not over \$20,000</u>	<u>\$354.25 plus 3.54% of excess over \$12,500</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$619.75 plus 4.72% of excess over \$20,000</u>
<u>Over \$30,000</u>	<u>\$1,091.75 plus 5.12% of excess over \$30,000</u>

(c) Effect of rates on Nonresident Composite and Withholding Obligations — Notwithstanding any provision of this article to the contrary, for taxable years beginning on and after the retroactive date specific in §11-21-4g(d) of this code, whenever the words ‘six and one-half percent’ appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77, of this article, with relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns, heads of households, and estates and trusts, the stated percentage shall be changed to 5.12%.

(d) *Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply retroactively for all taxable years beginning on and after January 1, 2023, and shall be in lieu of the rates of tax specified in §11-21-4e of this code.

§11-21-4h Future personal income tax reductions.

(a) For the purposes of this section, the terms defined in this section have the meanings ascribed to them unless a different meaning is clearly required by the context in which the term is used:

(1) ‘Adjusted consumer price ratio’ means the fiscal year consumer price index divided by the base year consumer price index.

(2) ‘Adjusted general revenue fund collections’ means all net general revenue fund collections minus the net general revenue fund collections related to the imposition of the taxes imposed under the provisions of §11-13A-1, *et seq.* of this code.

(3) ‘Base year revenues’ means actual general revenue fund collections for 2019 fiscal year, which is \$4,293,884,754

(4) ‘Base year consumer price index’ means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July 2018 and June 2019.

(5) ‘Excess fiscal year general revenue fund collections’ means the positive difference from subtracting the inflation adjusted base year revenues from the adjusted general revenue fund collections from the immediately preceding fiscal year.

(6) ‘Fiscal year consumer price index’ means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July and June of the immediately preceding fiscal year.

(7) ‘Inflation adjusted base year revenues’ means the base year general revenue fund collections multiplied by the adjusted consumer price ratio.

(b) *Future personal income tax rate reductions.* — Beginning on August 15, 2024, and every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues. If the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues, then there will be a reduction in the personal income tax rates as determined under this section beginning in the next taxable year.

(c) *Determination of rate.* — In order to determine the amount of a personal income tax reduction, the excess fiscal year general revenue fund collections will be divided by the amount of the immediately preceding fiscal year’s total personal income tax collections for all funds and will be rounded down to the nearest whole percentage. The amount of the percentage of reduction will be applied equally across the tax rates applicable in the tax year immediately preceding the rate reduction: *Provided*, That reduction in personal income tax rates may not result in an amount larger than a 10% reduction in the rates set forth in §11-21-4e of this code.

(d) *Certification of reduction.* – The Secretary of Revenue and the State Auditor will certify to the Tax Commissioner that a rate change is required under this section as soon as possible after

August 15 so that the Tax Commissioner may notify taxpayers of any change in personal income tax rates. The certification will provide base year revenues, the total fiscal year general revenue fund collections from the immediately preceding fiscal year, the base year consumer price index, the fiscal year consumer price index, the adjusted consumer price ratio, the amount of inflation adjusted base year revenues, the amount of excess fiscal year general revenue fund collections and the amount of the immediately preceding fiscal year's total personal income tax collections for all funds.

(e) *Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4g of this code.

(f) *Annual Reports.* — The Tax Commissioner shall prepare an annual report to the Joint Committee on Government and Finance detailing any relevant modifications to the personal income tax.

(g) *Rulemaking.* — Notwithstanding any provision of this code to the contrary, the Tax Commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code explaining and implementing this section.

And,

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

Com. Sub. for H. B. 2526 – “A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, and §11-13MM-10; and to amend said code by adding thereto two new sections, designated §11-21-4g and §11-21-4h, all relating to reducing the personal income tax; providing for reduced graduated income tax rates; reducing the rate of tax on composite returns; reducing the rate of withholding tax on nonresident income; reducing the rate of withholding tax on the

nonresident sale of real estate; reducing the rate of withholding on gambling winnings; applying the rates retroactively to January 1, 2023; providing for additional reductions in the personal income tax rates when certain criteria have been met; providing for a method for calculating the rate reduction and cap on the reduction; providing for certification to the Tax Commissioner; authorizing a refundable tax credit applied against personal income tax or corporation net income tax based upon amount of property tax timely paid on motor vehicles; providing for the treatment of credit upon transfer of eligible motor vehicle; authorizing a refundable tax credit applied against personal income tax based upon the amount of real property tax timely paid on a homestead owned by eligible disabled veterans; authorizing a refundable tax credit against corporation net income tax or personal income tax based upon 50% of property tax timely paid on personal property owned by a small business; designating a short title; providing findings and purpose; defining terms; providing for the application of tax credits; allowing rulemaking; providing for annual reports to the legislature; and providing effective dates.”

The Speaker ruled, under the provisions of House Rule 49, that all Delegates, in relation to car ownership, were members of a class of persons possibly to be affected and did not excuse the Members from voting on the motion or the bill.

On the motion to concur in the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 482**), and there were—yeas 79, nays 14, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Cooper, Dean, Fluharty, Garcia, Hansen, Hornbuckle, E. Pritt, Pushkin, Rowe, Skaff, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Ferrell, Hott, Reynolds, Ross, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 483**), and there were—yeas 89, nays 4, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Hansen, Pushkin, Walker and Williams.

Absent and Not Voting: Bridges, Ferrell, Hott, Reynolds, Ross, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2526) passed.

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

On this question, the yeas and nays were taken (**Roll No. 484**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Hott, Reynolds, Ross, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2526) takes effect from its passage.

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

Special Calendar

-continued-

Unfinished Business

H. C. R. 15, Requesting That the Joint Committee on Government and Finance send official correspondence to West

Virginia's federal delegations stating West Virginia veterans' concerns and objections to the two TRICARE for Life ("TFL") proposals; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

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

Com. Sub. for S. C. R. 17, US Navy PO2 Phillip Joseph "PJ" Hainer Memorial Bridge; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

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

H. C. R. 62, U.S. Army PFC Clayton Collins Memorial Bridge; coming up in regular order, as unfinished business, was reported by the Clerk.

On the question of the adoption of the resolution, the yeas and nays were demanded, which demand was sustained. The yeas and nays having been ordered, they were taken (**Roll No. 485**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Burkhammer, Ferrell, Hott, Kirby, Kump, Reynolds, Skaff, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution adopted.

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

H. C. R. 64, U. S. Army Air Corps PVT-II Charles A. White Memorial Road proposals; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

At the request of Delegate Householder, and by unanimous consent, the House of Delegates returned to the Twelfth Order of Business to consider bills on Third Reading.

Third Reading

-continued-

Com. Sub. for S. B. 51, Requiring impact statement in certain instances of school closing or consolidation; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

S. B. 131, Allowing municipal fire marshals to receive service weapon upon retirement; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 486**), and there were—yeas 84, nays 1, absent and not voting 15, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Cooper, Fehrenbacher, Ferrell, Foggin, Hott, Kump, E. Pritt, Reynolds, Skaff, Smith, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 131) passed.

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

Com. Sub. for S. B. 205, Relating to registration plates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 487**), and there were—yeas 86, nays 1, absent

and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Bridges, Chiarelli, Cooper, Fehrenbacher, Ferrell, Hornby, Hott, Kump, E. Pritt, Reynolds, Skaff, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 205) passed.

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

S. B. 246, Revising membership of Broadband Enhancement Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 488**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Chiarelli, Cooper, Ferrell, Hornby, Hott, Kump, E. Pritt, Reynolds, Skaff, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 246) passed.

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

Com. Sub. for S. B. 439, Establishing design-build program for DEP; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 88, nays 3, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall and Vance.

Absent and Not Voting: Bridges, Cooper, Ferrell, Hott, Kump, Reynolds, Skaff, Storch and Westfall.

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

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

On this question, the yeas and nays were taken (**Roll No. 490**), and there were—yeas 88, nays 4, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall, McGeehan and Vance.

Absent and Not Voting: Bridges, Cooper, Ferrell, Hott, Kump, Reynolds, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 439) takes effect from its passage.

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

Com. Sub. for S. B. 463, Increasing validity of CDL instruction permit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 491**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Ferrell, Hott, Kump, Reynolds, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 463) passed.

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

S. B. 591, Allowing counties and municipalities to jointly undertake development projects; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 492**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Ferrell, Hott, Kump, Longanacre, Reynolds, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 591) passed.

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

S. B. 609, Obtaining approval for decommissioning or deconstructing of existing power plant; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on Energy and Manufacturing, and adopted, on page 1, section 5c, on line 1, after the word “existing” and before the word “power” by inserting the words “coal, oil, or natural gas fueled”;

And,

On page 1, section 5c, on line 4, before the word “power” by inserting the words “coal, oil, or natural gas fueled”.

On motion of Delegates Steele and Anderson, the bill was amended on page 1, section 5c, line 2, after the word authority by striking the period and inserting in lieu thereof a colon and the following:

“Provided, That such approval may not be unreasonably withheld.”

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 493**), and there were—yeas 87, nays 5, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Hansen, Hornbuckle, Pushkin, Walker and Young.

Absent and Not Voting: Bridges, Cooper, Ferrell, Hott, Kump, Reynolds, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 609) passed.

On motion of Delegate Anderson, the title of the bill was amended to read as follows:

S. B. 609 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5D-1-5c, relating to and requiring the approval of the Public Energy Authority before decommissioning or deconstructing an existing coal, oil, and natural gas fueled electric power plant; requiring the submission of a petition containing certain specified information; providing for rule-making authority; and exempting certain power plants from the approval requirement.”

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

On this question, the yeas and nays were taken (**Roll No. 494**), and there were—yeas 87, nays 3, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Hansen, Walker and Young.

Absent and Not Voting: Bridges, Cooper, Ferrell, A. Hall, Hott, Kump, Linville, Reynolds, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 609) takes effect from its passage.

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

Com. Sub. for S. B. 613, Relating generally to certificates of need; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Second Reading

S. B. 142, Modifying procedures to settle estates of decedents; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page 4, section 4a, line 26, by inserting “distributee and” after the word ‘each’; and, on page 4, section 4a, line 28 by inserting “distributee and” after the word ‘any’;

And,

On page 9, section 9, line 9 by striking “II” and inserting “I” in lieu thereof; and, on page 9, section 9, line 11, by striking the word “first”.

The bill was then ordered to third reading.

S. B. 237, Relating to Public Employees Retirement System and State Teachers Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 335, Authorizing Department of Homeland Security to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 449, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 6, section 3, line 4, by striking “§16-5-1” and inserting in lieu thereof “§16-5V-1”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 450, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on 49, section 25, line 40, by striking “§18-17A-28” and inserting in lieu thereof “§18-7A-28”;

And, on page 49, section 25, line 41, by striking “§18-17A-28” and inserting in lieu thereof “§18-7A-28”. f

The bill was then ordered to third reading.

Com. Sub. for S. B. 453, Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 455, Modifying certain used car restrictions; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 458, Setting rate of interest on delinquent retirement contribution submissions; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 468, Continuing Cabwaylingo State Forest Trail System; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Nestor, the bill was amended on page 1, section 3a, lines 15 through 19, by striking the new language in lines 15 through 19 and inserting in lieu thereof the following:

“The Parks and Recreation Section of the Division of Natural Resources is prohibited from establishing any additional ATV, ORV, or UTV trail systems within state parks and state forests: *Provided*, That the Director of the Division of Natural Resources shall have the authority to authorize the development and use of certain connector trails, roads, and parking areas from private systems, including, without limitation, the Hatfield-McCoy systems, solely for the purpose of providing access to state park and state forest recreational facilities and lodging by ATV, ORV, and UTV trail system users.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 475, Modifying examinations for disability pensions; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 529, Allowing businesses to register as limited liability limited partnerships; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2911, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services; on second reading, coming up in

regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2914, Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2927, Supplementing and amending appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitations - Correctional Units; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3040, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3065, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3067, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3074, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3108, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority; on second reading,

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

First Reading

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

Com. Sub. for S. B. 267, Updating law regarding prior authorizations,

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county,

And,

Com. Sub. for S. B. 476, Exempting managed care contracts from purchasing requirements.

At the request of Delegate Householder, and by unanimous consent, the House of Delegates returned to the second order of business to finish the Order of Business.

Committee Reports

On motion for leave, a bill was introduced (Originating in the Committee on Finance and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Summers, Espinosa, Gearheart, Horst, Hott, Riley, Barnhart, Mazzocchi, Anderson and Rowe:

H. B. 3553 - “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Central Office, fund 0407, fiscal year 2023, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.”

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 99, Relating to meetings among county boards of education,

And,

Com. Sub. for S. B. 688, Allowing BOE to hire retired teachers to assist with tutoring,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 282, Creating WV Guardian Program,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 282) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 216, Requiring all schools to instruct students on Holocaust, other genocides and financial literacy,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 216) was referred to the Committee on Finance.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2907, Supplementing and amending appropriations to the Department of Administration, Division of General Services,

H. B. 2913, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund,

H. B. 3039, Making a supplementary appropriation to Adjutant General - State Militia,

H. B. 3073, Supplementing and amending appropriations to Adjutant General - State Militia,

H. B. 3563, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

H. B. 3564, Making a supplementary appropriation to the Division of Human Services - Energy Assistance,

S. B. 452, Relating to Emergency Medical Services Retirement System,

And,

S. B. 487, Extending additional modification reducing federal adjusted gross income,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2905, Supplementing and amending appropriations to State Board of Education - State Department of Education - Classroom Aide Program,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2905 - “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the State Board of Education – State Department of Education, fund 0313, fiscal year 2023, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

And,

H. B. 2928, Supplementing and amending appropriations to DHHR, Division of Health,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2928 - “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2023, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

With the recommendation that the committee substitutes each do pass.

Delegate Criss, Chair of the Committee on Finance submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 451, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 356, Authorizing DOT to promulgate legislative rules,

And,

Com. Sub. for S. B. 462, Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 191, Relating to liability for payment of court costs as condition of pretrial diversion agreement,

S. B. 457, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises,

Com. Sub. for S. B. 558, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media,

And,

S. B. 559, Relating to spousal privilege,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2309, To require the Division of Forestry to create an online renewal process no later than July 1, 2023.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2597, Amending performance evaluations of professional personnel.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2757, Relating to expanding institutional eligibility for the WV Invests Grant Program.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2839, Making a technical correction regarding an incorrect fund name and clarifying applicability to mine lands governed by SMCRA and the Abandoned Mine Lands Act.

A message from the Senate, by

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

Com. Sub. for H. B. 3113, Requiring high school students to complete course of study in personal finance.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3364, Requiring the closure of certain municipal policemen's and firemen's pension and relief funds as condition of issuance of pension funding revenue bonds.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3391, Establishing filing deadlines for appeals of property tax valuations and issues involving property tax classification and taxability to the West Virginia Office of Tax Appeals.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3519, Making a supplementary appropriation to the Department of Transportation, Division of Motor Vehicles.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3520, Making a supplementary appropriation to the Department of Education, State Board of Education – Vocational Division.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3521, Making a supplementary appropriation to the Division of Health – Maternal and Child Health.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3522, Making a supplementary appropriation to the Department of Commerce, Division of Natural Resources – License Fund – Wildlife Resources.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3523, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Economic Development Authority.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3527, Supplementing and amending appropriations to Department of Education, School Building Authority.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3528, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations.

A message from the Senate, by

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

S. B. 553, Allowing for evaluation of prequalified bidders to be based on best value.

Motions

At the request of Delegate Ridenour, consent was obtained for the comments of the Delegate regarding H. C. R. 62 be printed in the Appendix to the Journal.

At 5:47 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 6, 2023.

Monday, March 6, 2023

FIFTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Saturday, March 4, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

S. B. 146, Modifying regulations of peer-to-peer car sharing program,

And,

Com. Sub. for S. B. 345, Authorizing Department of Revenue to promulgate legislative rules,

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

Messages from the Executive

and Other Communications

The Clerk announced that **Com. Sub. for H. B. 3308** was presented to the Governor on March 6, 2023.

Communication from His Excellency, the Governor, advised that on March 4, 2023, he approved **Com. Sub. for H. B. 2006, Com. Sub. for H. B. 2596, Com. Sub. for H. B. 3055 and Com. Sub. for H. B. 3122.**

The Clerk announced that **S. B. 128** had become law without the signature of the Governor.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2605, Relating to Good Samaritan law.

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

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

“ARTICLE 7. ACTIONS FOR INJURIES.

**§55-7-15. Aid to victim of accident, ~~and victim of crime,~~
emergency, or disaster; immunity from civil liability,
definitions.**

(a) ~~No~~ A person, including, without limitation, ~~a person licensed to practice medicine or dentistry~~ trained, licensed, or certified professionals, or an entity who in good faith renders or provides emergency care, or assistance at the scene of an accident, ~~or to a victim at the scene of a crime~~ emergency, or disaster, voluntarily and without remuneration, ~~shall~~ may not be liable for any civil damages as the result of any act or omission at the scene in rendering, or providing ~~such~~ emergency care or assistance.

(b) For purposes of this section, the term ‘emergency’ means any instance where a person suffers from a medical condition requiring immediate treatment due to natural causes, accident, or crime.

(c) For purposes of this section, 'disaster' has the same meaning as that term is defined in §15-5-2 of this code.

§55-7-17. Aid by trained ~~hazardous substance~~ emergency response services personnel; entities, immunity from civil liability; definitions.

(a) ~~No~~ A person trained in a qualified program of ~~hazardous substance emergency response services~~ certified by the State Fire Marshal pursuant to rules promulgated by authority of subsection (a), section five a, article three, chapter twenty nine of this code or an entity, who voluntarily and in good faith renders or provides advice, ~~or~~ assistance, equipment, or materials at the scene of an actual or threatened accident, emergency, or disaster, ~~discharge of any hazardous substance~~ and receives no remuneration for rendering or providing such the advice, ~~or~~ assistance, equipment, or materials is not liable for any civil damages as the result of any act or omission at the scene in rendering or providing such advice, ~~or~~ assistance, equipment, or materials: *Provided*, That the exemption from liability for civil damages of this section shall be extended to any such person who receives reimbursement for out-of-pocket expenses incurred in rendering or providing such the advice, ~~or~~ assistance, equipment, or materials or compensation from his or her regular employer for the time period during which he or she was actually engaged in rendering or providing such advice, ~~or~~ assistance, equipment, or materials, but is not extended to ~~any such that~~ person or an entity who by his, or her, or its act or omission caused or contributed to the cause of such the actual or threatened discharge of any hazardous substance accident, emergency, or disaster.

For the purposes of this section, 'hazardous substance' means any 'hazardous substance' as defined in chapter eighty eight, Acts of the Legislature, regular session, one thousand nine hundred eighty five; any 'chemical substances and materials' listed in the rules promulgated by the commissioner of labor pursuant to section eighteen, article three, chapter twenty one, of this code; and any 'hazardous waste' as defined in section three, article eighteen, chapter twenty two of this code.

(b) For purposes of this section, the term ‘emergency’ includes, without limitation, any instance where a person suffers from a medical condition requiring immediate treatment due to natural causes, accident, or crime.

(c) For purposes of this section, the term ‘disaster’ has the same meaning as that term is defined in §15-5-2 of this code and temporally includes the imminent threat of disaster as well as its occurrence.

(d) For purposes of this section, the term ‘emergency services’ means any mine rescue response services, hazardous substance response services, chemical substance and materials response services, hazardous waste response services and further has the meaning as the term is defined in §15-5-2 of the code.”

And,

Com. Sub. for H. B. 2605 – “A Bill to amend and reenact §55-7-15 and §55-7-17 of the Code of West Virginia, 1931, as amended, all relating to actions for injuries; providing that certain persons or an entity who in good faith render or provide emergency care or assistance to a person at the scene of an accident, emergency, or disaster, voluntarily and without remuneration, are not liable for civil damages for acts or omissions at the scene; providing that persons trained in a qualified program of emergency services who in good faith render or provide advice, assistance, equipment, or materials at the scene of an actual or threatened accident, emergency, or disaster, voluntarily and without remuneration, are not liable for civil damages for acts or omissions at the scene; allowing reimbursement for out-of-pocket expenses for equipment and materials without losing immunity; and defining terms.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 495**), and there were—yeas 97, nays none,

absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Ferrell and Fluharty.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2605) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2640, Authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules.

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

On page 2, section 1, line 8 by striking out the word “amendments” and inserting in lieu thereof the word ‘amendment’;

On page 2, section 1, line 10, by striking out the semicolon and inserting in lieu thereof a period.

And,

On page 2, section 1, after line 10 by striking out the remainder of the subsection.

And,

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

Com. Sub. for H. B. 2640 – “A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of

Environmental Protection to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for operating permits; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of ozone season nitrogen oxides emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to quarrying and reclamation; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the Recycling Assistance Grant Program; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the Reclamation of Abandoned and Dilapidated Properties Grant Program; and authorizing the Secretary's Office of the Department of Environmental Protection to promulgate a legislative rule relating to reclamation of solar and wind electricity generation facilities."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 496**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall and Vance.

Absent and Not Voting: Espinosa, Ferrell and Fluharty.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2640) passed.

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

On this question, the yeas and nays were taken (**Roll No. 497**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: A. Hall and Vance.

Absent and Not Voting: Espinosa, Ferrell and Fluharty.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2640) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2648, Authorizing certain agencies and boards of the DHHR to promulgate a legislative rule.

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

**“ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF
HEALTH AND HUMAN RESOURCES TO
PROMULGATE LEGISLATIVE RULES.**

§64-5-1. Department of Health and Human Resources.

(a) The legislature directs the Department of Health and Human Resources to amend the legislative rule filed in the State Register on April 30, 2021, authorized under the authority of §16-1-4 of this code, relating to the Department of Health and Human Resources (Food Establishments, 64 CSR 17), with the amendment set forth below:

On page 2, by striking out all of subdivision 3.1.h. and inserting in lieu thereof a new subdivision 3.1.h. to read as follows:

3.1.h. Chapter 6, section 6-501.115 is not applicable if the following conditions are met:

3.1.h.1. The dog is prohibited from entering any areas where food is being prepared

3.1.h.2. The dog owner will be asked to leave, if a dog creates a nuisance;

3.1.h.3. The establishment is licensed as a private club, restaurant, coffee shop, brew pub, or micro distillery;

3.1.h.4. The establishment has liability insurance for dog-related incidents;

3.1.h.5. Dog accidents are cleaned and sanitized. Dog waste stations are available. A written procedure shall be established and posted concerning dog accident cleanup; and

3.1.h.6. Signage is present indicating that the establishment is dog friendly.

(b) The legislative rule filed in the State Register on March 8, 2022, authorized under the authority of §27-6A-2 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Department of Health and Human Resources (procedures pertaining to the Dangerousness Assessment Advisory Board, 64 CSR 26), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §16-1-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (standards for local boards of health, 64 CSR 73), is authorized.

(d) The legislative rule filed in the State Register on July 25, 2022, authorized under the authority of §16-12-3 of this code, modified by the Department of Health and Human Resources to meet the objectives of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (medical examiner requirements for postmortem inquiries, 64 CSR 84), is authorized with the following amendment:

On page 14, by striking out all of section 13.5. and inserting in lieu thereof a new section 13.5 to read as follows:

“13.5. This section applies only to remains of persons whose death have been pronounced within the State of West Virginia or for remains of persons whose deaths have been pronounced in another state and does not have a prior authorization for cremation issued by the state in which the death occurred.”

(e) The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources (Medical Cannabis Program - grower and processors, 64 CSR 110), is authorized with the amendment set forth below:

On page 12, subdivision 8.1.d., by striking out the words “not to exceed 180 days” and inserting in lieu thereof the words “not less than 180 days”.

(f) The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources (Medical Cannabis Program - dispensaries, (64 CSR 112), is authorized with the amendment set forth below:

On page 12, subdivision 11.1.d., by striking out the words “not to exceed 180 days” and inserting in lieu thereof the words “not less than 180 days”.

(g) The legislative rule filed in the State Register on August 24, 2022, authorized under the authority of §16-29B-8 of this code,

relating to the Department of Health and Human Resources (financial disclosure, 65 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §16-29B-24 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Department of Health and Human Resources (Uniform Bill Database, 65 CSR 34), is authorized.

(i) The legislative rule filed in the State Register on June 22, 2022, authorized under the authority of §16-53-3 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 26, 2022, relating to the Department of Health and Human Resources (development of methodologies to examine needs for substance use disorder treatment facilities within the state, 69 CSR 13), is authorized.

(j) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §16-42-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Department of Health and Human Resources (Core Behavioral Health Crisis Services System, 69 CSR 19), is authorized.

(k) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (child care centers licensing, 78 CSR 01), is authorized.

(l) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §27-17-3 of this code,

relating to the Department of Health and Human Resources (minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia, 78 CSR 03), is authorized.

(m) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, relating to the Department of Health and Human Resources (family child care facility licensing requirements, 78 CSR 18), is authorized.

(n) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (family child care home registration requirements, 78 CSR 19), is authorized with the amendments set forth below:

On page 13, subdivision 9.2.1.a, after the word, “signed” by inserting the words, “and dated”;

And,

On page 13, subdivision 9.2.1.a., after the word, “available” by inserting the words, “the date the pet it brought into the home,”.

(o) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

(p) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to

meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 14, 2022, relating to the Department of Health and Human Resources (out-of-school-time child care center licensing requirements, 78 CSR 21), is authorized.

(q) The legislative rule filed in the State Register on September 20, 2022, authorized under the authority of §49-2-126 of this code, relating to the Department of Health and Human Resources (goals for foster children, 78 CSR 25), is authorized.

(r) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §49-2-115A of this code, relating to the Department of Health and Human Resources (deemed head start child care center licenses, 78 CSR 28), is authorized.

§64-5-2. Department of Health and Human Resources and the Insurance Commissioner.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §33-4A-8 of this code, relating to the Department of Health and Human Resources and the Insurance Commissioner (All-Payers Claims Database - Submission Manual, 114A CSR 03), is disapproved.

ARTICLE 12. REPEAL OF UNAUTHORIZED AND OBSOLETE RULES.

§64-12-2. Department of Health and Human Resources, the Insurance Commissioner, and the Chair of the Department of Health and Human Resources.

The legislative rule effective April 1, 2022, authorized under the authority of §33-4A-8 of this code, relating to the Secretary of the Department of Health and Human Resources, the Insurance Commissioner, and Chair of the Department of Health and Human Resources (All-Payer Claims Database – Data Submission Requirements, 114A CSR 01), is repealed.”

And,

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

Com. Sub. for H. B. 2648 - “A Bill to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, and to amend and reenact §64-12-2 of said code; all relating to generally authorizing the Department of Health and Human Resources to promulgate legislative rules; authorizing or rejecting the rules as filed and as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature, and directing the Department of Health and Human Resources to amend a current legislative rule; relating to directing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to procedures pertaining to the Dangerousness Assessment Advisory Board; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to standards for local boards of health; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medical examiner requirements for postmortem inquiries; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to Medical Cannabis Program - grower and processors; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to Medical Cannabis Program – dispensaries; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to financial disclosures; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Uniform Bill Database; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to development of methodologies to examine needs for substance use disorder treatment facilities within the state; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Core Behavioral Health Crisis Services System; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care centers licensing; relating to authorizing the Department

of Health and Human Resources to promulgate a legislative rule relating to minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care facility licensing requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to out-of-school-time child care center licensing requirements; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children; relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to deemed head start child care center licenses; relating to rejecting the rule proposed by the Department of Health and Human Resources and the Insurance Commissioner relating to All-Payers Claims Database - Submission Manual; and relating to repealing the Department of Health and Human Resources and the Insurance Commissioner a legislative rule relating to All-Payer Claims Database – Data Submission Requirements.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 498**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2648) passed.

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

On this question, the yeas and nays were taken (**Roll No. 499**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2648) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, and changed the effective date to take effect July 1, 2023, a bill of the House of Delegates as follows:

H. B. 3547, Increasing the number of personal leave days that county board of education employees may use.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 500**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3547) takes effect July 1, 2023.

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

A message from the Senate, by

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

Com. Sub. for S. B. 243, Requiring substance use disorder inpatient providers to provide transportation to patients.

Delegate Rohrbach moved that the House concur in the following amendment by the Senate:

On page 1, line 4, by changing the colon to a period and striking out the words “*Provided*, That if the patient’s transportation is being provided under the West Virginia Medicaid non-emergency medical transportation benefit, the patient may not be transported to an out of the state location greater than 30 miles past the West Virginia border.” and adding in lieu thereof the words “The provider is solely responsible for the patient’s out-of-state transportation costs and shall pay all of transportation costs associated with returning the patient to their out-of-state location.”

And,

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

Com. Sub. for S. B. 243 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-53-4, relating to residential substance use disorder service facility providers; requiring providers to offer transportation to their patients upon discharging those patients; and requiring the provider to pay all transportation costs associated with returning the patient to their out-of-state location.”

The motion to concur was rejected.

Special Calendar

Third Reading

Com. Sub. for S. B. 51, Requiring impact statement in certain instances of school closing or consolidation; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

S. B. 142, Modifying procedures to settle estates of decedents; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 501**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Miller and Ward.

Absent and Not Voting: Espinosa, Ferrell, Garcia and Pushkin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 142) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

S. B. 142 – “A Bill to amend and reenact §44-2-1 and §44-2-29 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-4a and §44-3A-19 of said code; and to amend and reenact §44-4-9 of said code, all relating to the procedure to settle estates of decedents; abolishing the requirement to publish a short form settlement of estates of decedents; providing for short form filing procedure; changing the requirement of a Class II legal advertisement to a Class I legal advertisement for the fiduciary commissioners list of long form settlements; and updating language and style.”

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

S. B. 237, Relating to Public Employees Retirement System and State Teachers Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 502**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 237) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 503**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 237) takes effect July 1, 2023.

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

Com. Sub. for S. B. 335, Authorizing Department of Homeland Security to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 504**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 335) passed.

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

On this question, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 335) takes effect from its passage.

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

S. B. 449, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 449) passed.

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

Com. Sub. for S. B. 450, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 507**), and there were—yeas 97, nays none,

absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Ferrell and Householder.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 450) passed.

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

Com. Sub. for S. B. 453, Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 508**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 453) passed.

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

Com. Sub. for S. B. 455, Modifying certain used car restrictions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 509**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 455) passed.

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

S. B. 458, Setting rate of interest on delinquent retirement contribution submissions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 458) passed.

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

Com. Sub. for S. B. 468, Continuing Cabwaylingo State Forest Trail System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 511**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Dean, Foggin, W. Hall and Longanacre.

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 468) passed.

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

Com. Sub. for S. B. 475, Modifying examinations for disability pensions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 512**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 475) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 513**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Ferrell and Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 475) takes effect July 1, 2023.

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

S. B. 529, Allowing businesses to register as limited liability limited partnerships; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 514**), and there were—yeas 97, nays none,

absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Ferrell and E. Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 529) passed.

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

Com. Sub. for S. B. 613, Relating generally to certificates of need; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 2911, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 515**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Espinosa, Ferrell and Honaker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2911) passed.

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

On this question, the yeas and nays were taken (**Roll No. 516**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Espinosa, Ferrell and Honaker.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2911) takes effect from its passage.

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

Com. Sub. for H. B. 2914, Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 517**), and there were—yeas 73, nays 23, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Chiarelli, Dean, Dillon, Fluharty, Garcia, Gearheart, A. Hall, Kimble, Kirby, Kump, Longanacre, McGeehan, C. Pritt, E. Pritt, Pushkin, Ridenour, Summers, Tully, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Espinosa, Ferrell and Honaker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2914) passed.

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

On this question, the yeas and nays were taken (**Roll No. 518**), and there were—yeas 77, nays 18, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Chiarelli, Dean, Dillon, Fluharty, Gearheart, A. Hall, Kimble, Kirby, Kump, Longanacre, McGeehan, C. Pritt, E. Pritt, Pushkin, Vance, Walker and Young.

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Honaker.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2914) takes effect from its passage.

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

H. B. 2927, Supplementing and amending appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation - Correctional Units; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 519**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Honaker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2927) passed.

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

On this question, the yeas and nays were taken (**Roll No. 520**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell, Honaker and Street.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2927) takes effect from its passage.

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

Com. Sub. for H. B. 3040, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 521**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Street.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3040) passed.

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

On this question, the yeas and nays were taken (**Roll No. 522**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell, Foggin and Street.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3040) takes effect from its passage.

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

H. B. 3065, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation

Facilities - Aeronautics Commission; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 523**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell, Foggin and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3065) passed.

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

On this question, the yeas and nays were taken (**Roll No. 524**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell, Foggin and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3065) takes effect from its passage.

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

H. B. 3067, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 525**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3067) passed.

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

On this question, the yeas and nays were taken (**Roll No. 526**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3067) takes effect from its passage.

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

Com. Sub. for H. B. 3074, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 527**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon and Longanacre.

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3074) passed.

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

On this question, the yeas and nays were taken (**Roll No. 528**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3074) takes effect from its passage.

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

H. B. 3108, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 529**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Espinosa, Ferrell and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3108) passed.

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

On this question, the yeas and nays were taken (**Roll No. 530**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Clark, Espinosa, Ferrell, Pushkin, Ridenour, Riley and Willis.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3108) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 267, Updating law regarding prior authorizations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 476, Exempting managed care contracts from purchasing requirements; on second reading, coming up in regular order, was read a second time.

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

First Reading

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

S. B. 99, Relating to meetings among county boards of education,

Com. Sub. for S. B. 191, Relating to liability for payment of court costs as condition of pretrial diversion agreement,

Com. Sub. for S. B. 356, Authorizing DOT to promulgate legislative rules,

Com. Sub. for S. B. 451, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System,

S. B. 452, Relating to Emergency Medical Services Retirement System,

S. B. 457, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises,

Com. Sub. for S. B. 462, Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers,

S. B. 487, Extending additional modification reducing federal adjusted gross income,

Com. Sub. for S. B. 558, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media,

S. B. 559, Relating to spousal privilege,

Com. Sub. for S. B. 688, Allowing BOE to hire retired teachers to assist with tutoring,

Com. Sub. for H. B. 2905, Supplementing and amending appropriations to State Board of Education - State Department of Education - Classroom Aide Program,

H. B. 2907, Supplementing and amending appropriations to the Department of Administration, Division of General Services,

H. B. 2913, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund,

Com. Sub. for H. B. 2928, Supplementing and amending appropriations to DHHR, Division of Health,

H. B. 3039, Making a supplementary appropriation to Adjutant General - State Militia,

H. B. 3073, Supplementing and amending appropriations to Adjutant General - State Militia,

H. B. 3553, Supplementing and amending appropriations to Department of Health and Human Resources,

H. B. 3563, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

And,

H. B. 3564, Making a supplementary appropriation to the Division of Human Services - Energy Assistance.

At 12:39 p.m., on motion of Delegate Householder, the House of Delegates recessed until 6:00 p.m.

* * * * *

Evening Session

* * * * *

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2827, Make public charter schools eligible for Safe Schools Funds.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2860, To dispose of old AFFF foam accumulated by fire departments.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3044, Relating to the annual fee for limited video lottery terminal permits.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3148, Relating to financing municipal policemen's and firemen's pension and relief funds.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3244, Relating to Municipal Pensions Oversight Board proposing legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 3387, Extending the moratorium on the authorization of new convention and visitors bureaus for an additional two years.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3450, Relating generally to racetrack video lottery and the Licensed Racetrack Modernization Fund.

A message from the Senate, by

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

Com. Sub. for S. B. 188, Grid Stabilization and Security Act of 2023.

A message from the Senate, by

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

Com. Sub. for S. B. 268, Relating to PEIA.

A message from the Senate, by

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

Com. Sub. for S. B. 423, Increasing salary for certain state employees.

A message from the Senate, by

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

S. B. 609, Obtaining approval for decommissioning or deconstructing of existing power plant.

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

Committee Reports

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 436, Prompt Payment Act of 2023,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 436) was referred to the Committee on Finance.

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 244, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public,

And,

Com. Sub. for S. B. 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 251, Displaying official motto of United States in public schools and institutions of higher education,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (S. B. 251) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 262, Allowing students to transfer schools and retain athletic eligibility,

S. B. 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs,

And,

Com. Sub. for S. B. 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 47, Creating Charter Schools Stimulus Fund,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 47) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 488, Aligning state and federal accreditation rules,

And,

Com. Sub. for S. B. 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 151, Levying tax on pass-through entity's income,

And,

Com. Sub. for S. B. 478, Relating to Jumpstart Savings Program,

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

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 3109, Supplementing and amending appropriations to the State Board of Education - State Department of Education,

H. B. 3542, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund,

S. B. 149, Exempting certain organizations from property taxation,

Com. Sub. for S. B. 294, Clarifying amount of deputy sheriff annual salary increase,

And,

S. B. 465, Increasing limit on moneys placed in county's rainy day fund,

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

Leaves of Absence

At the request of Delegate Householder, and by unanimous consent, leave of absence for the day was granted Delegate Espinosa.

Miscellaneous Business

Delegate Espinosa noted to the Clerk that had he been present when the votes were taken on the passage of S. B. 142, S. B. 237, Com. Sub. for S. B. 335, S. B. 449, Com. Sub. for S. B. 450, Com. Sub. for S. B. 453, Com. Sub. for S. B. 455, S. B. 458, Com. Sub. for S. B. 468, Com. Sub. for S. B. 475, S. B. 529, Com. Sub. for H. B. 2911, Com. Sub. for H. B. 2914, H. B. 2927, Com. Sub. for H. B. 3040, H. B. 3065, H. B. 3067, Com. Sub. for H. B. 3074 and H. B. 3108, he would have voted "Yea" thereon.

At 6:31 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 7, 2023.

Tuesday, March 7, 2023

FIFTY-SIXTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, March 6, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that S. B. 597, on Second Reading, House Calendar, had been transferred to the Special Calendar; Com. Sub. for S. B. 462, on Second Reading, Special Calendar, had been transferred to the House Calendar; and S. B. 262 on First Reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 298, Relating to non-federally declared emergencies and non-states of emergency,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems,

Com. Sub. for S. B. 495, Providing correctional institutions and juvenile facilities video and audio records be confidential,

And,

S. B. 544, Increasing power purchase agreement cap,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 527, Allowing family members of military personnel access to discharge records,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 240, Requiring state board of examination or registration proceedings to be open to public inspection,

Com. Sub. for S. B. 467, Providing county commissioners ongoing mechanism to consider compensation increases for elected officials every two years,

Com. Sub. for S. B. 661, Clarifying preferential recall rights for employees sustaining compensable injury,

And,

S. B. 735, Clarifying department responsible for administration of certain programs,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. C. R. 52, Study the financial effects of raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal, public service district, county and state public works project,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 52) was referred to the Committee on Rules.

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 734, Requiring adoption of cloud computing services by state agencies,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 271, Modifying approval process requirements for First Responders Honor Board,

Com. Sub. for S. B. 665, Amending licensure requirements for massage therapist,

And,

S. B. 733, Relating to wildlife licenses and stamps,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 274, Third Grade Success Act,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 274) was referred to the Committee on Finance.

Messages from the Executive and Other Communications

The following communication was laid before the House of Delegates and reported by the Clerk:

STATE OF WEST VIRGINIA
Jim Justice
Governor of West Virginia

March 7, 2023

HOUSE EXECUTIVE MESSAGE NO. 3
2023 REGULAR SESSION

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates

Building 1, Room M-228
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Speaker Hanshaw:

The following amends and replaces the "General Revenue Fund — Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on March 1, 2023 as part of my Budget Document for the fiscal year ending June 30, 2024:

General Revenue Fund

Statement of Revenues, Expenditures, and Changes in Cash
Balance

(Nearest Dollar)

Actual Beginning Cash Balance July 1, 2022	\$ 1,994,018,233
Less: 31 Day Disbursements (July 1, 2022 - July 31, 2022)	(52,861 ,583)
Plus: Prior Year Reimbursements (July 1, 2022 - July 3 1, 2022) 137,305	
Less: Prior Year Appropriations Forwarded	(597,407,798)
Less: Cash Balance - Adjustments and Accruals Accumulated Surplus from FY 2022 @ July 31, 2022	<u>(451,758)</u>
	\$1,343,434,399
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	\$_____0
Less: FY 2023 Surplus Appropriations (FY 2022 Surplus) (Senate Bill 250) 2022 Regular Session	(793,370,787)

Less:	FY 2023 Surplus Supplemental Appropriation to the Division of Highways (SB 4002) (2022 4th EX)	(150,000,000)
Plus:	Prior Year Reimbursements (August 1, 2022 — February 27, 2023)	36,566
Plus:	Recommended FY 2023 Surplus Supplemental Appropriation Expiration of State Excess Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	30,500,000
Plus:	Recommended FY 2023 Surplus Supplemental Appropriation – Expiration of Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	21,550,000
Less:	FY 2023 Recommended Various Surplus Supplemental Appropriations (2023 Regular Session)	<u>(451,810,251)</u>
Unappropriated Surplus Balance @ December 31, 2022		\$339,927
Plus:	FY 2023 Revenue Estimate (<i>as revised</i>)	\$4,636,024,000
Less:	FY 2023 Appropriations (FY 2023 Budget Bill) (SB 250) (2022 Regular Session)	(4,635,701,389)
Plus:	FY 2023 Recommended Supplemental Appropriation (Education) (School Aid Formula) (2023 Regular Session)	4,559,900
Less:	FY 2023 Recommended Supplemental Appropriation Various Supplemental Appropriations (2023 Regular Session)	<u>(4,681,766)</u>

Total Estimated Unappropriated Balance @ June 30, 2023	\$200,745
Plus: FY 2024 Revenue Estimate (<i>as revised 3/7/2023</i>) FY 2024 Appropriations (FY 2024 Budget Bill) (2023 Regular Session)	 \$4,884,000,000 <u>(4,883,768,346)</u>
Total Estimated Unappropriated Balance @ June 30, 2024	<u>\$231 654</u> <u>\$772,326</u>

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice
Governor

Communications from the Clerk of the Senate to His Excellency, the Governor, advised that S. B. 136, Com. Sub. for S. B. 208, Com. Sub. for S. B. 270, S. B. 276, Com. Sub. for S. B. 300, S. B. 481 and S. B. 553 were presented to the Governor on March 6, 2023; and that Com. Sub. for S. B. 268, Com. Sub. for S. B. 423 and S. B. 609 were presented to the Governor on March 7, 2023.

The Clerk announced that Com. Sub. for H. B. 2526, Com. Sub. for H. B. 2587, H. B. 2611, H. B. 2899, Com. Sub. for H. B. 3210 and H. B. 3218 were presented to the Governor on March 7, 2023.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 3013, Relating to authorizing the Jefferson County Commission to levy a special district excise tax.

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

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

**“ARTICLE 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 five hundred 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 2044, 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, 2044, 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; ~~and.~~

(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.”

And,

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

Com. Sub. for H. B. 3013 – “A Bill to amend and reenact §7-22-9 of the Code of West Virginia, 1931, as amended, , all relating to county economic opportunity development districts; providing when the University Town Centre Economic Opportunity Development District may be abolished or terminated; authorizing the Jefferson County Commission to levy a special district excise tax; authorizing the special district excise tax for the benefit of the Hill Top House Hotel Economic Opportunity District; setting forth the land area within the special district subject to the special district excise tax; authorizing the commission to create the district and levy the special district excise tax without the approval of the executive director of the development office; authorizing the commission to 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; and requiring the Tax Commissioner to provide the commission with certification of the base tax revenue amount.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 68, nays 28, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Cannon, Coop-Gonzalez, Dean, Dillon, Fast, Foggin, A. Hall, Hanna, Holstein, Horst, Keaton, Kimble, Kirby, Kump, Linville, Longanacre, Martin, McGeehan, Pinson, C. Pritt, E. Pritt, Ross, Steele, Vance, Ward and Young.

Absent and Not Voting: Fehrenbacher, Honaker, Hornbuckle and Shamblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3013) passed.

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

On this question, the yeas and nays were taken (**Roll No. 532**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Coop-Gonzalez, Dean, Dillon, Fast, A. Hall, Hanna, Kimble, Kirby, Kump, Linville, Longanacre, Martin, McGeehan, E. Pritt, Steele, Vance, Ward and Young.

Absent and Not Voting: Honaker, Hornbuckle and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3013) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3114, Deny severance pay to employees of DOT for failure or refusal of drug testing.

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

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

“ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-8. Special merit-based personnel system for Department of Transportation employees.

(a) In order to attract and retain employees in the Department of Transportation, the Secretary of Transportation shall establish a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment.

All appointments and promotions to positions shall be made solely on the basis of merit and fitness for the position.

(b) The Department of Transportation personnel system shall be founded on effective performance management principles that set clear goals, provide efficient and effective services for our citizens, and appraise and reward employees for being responsible and performing as required.

(c) Beginning on January 1, 2022, notwithstanding any provision of this code or any rule to the contrary, employees and positions within the various agencies, boards, commissions, and divisions within the Department of Transportation currently governed by the provisions of §29-6-1 *et seq.* of this code shall be subject to the personnel system created pursuant to this section: *Provided*, That such employees and positions shall be deemed to retain their classified or classified-exempt status and all rights and privileges thereof. The employees of the Department of Transportation shall be afforded due process protections through §6C-2-1 *et seq.* of this code or other procedures established by the department that assure all of the protections required by law.

(d) The Department of Transportation personnel system is not exempt from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the employment process.

(e) The Department of Transportation personnel system may not be applied in any manner that would disqualify the department or its agencies, boards, commissions, or divisions for eligibility for any federal funding or assistance.

(f) The Division of Personnel shall, upon request of the Secretary of Transportation, take any action necessary to assist the Department of Transportation in completing the transition to the department's personnel system in an orderly and efficient manner.

(g) The Secretary of Transportation may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant

to the provisions of §29A-3-15 of this code to implement the provisions of this section.

(h) Notwithstanding any provision of this code to the contrary, the Department of Transportation personnel system shall require that any probationary employee of the Department of Transportation who is terminated for failing a drug or alcohol screen or refusing a drug or alcohol screen shall not be entitled to severance pay.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 533**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Honaker, Hornbuckle, Shamblin and Statler.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3114) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, and changed the effective date to take effect from passage, a bill of the House of Delegates as follows:

H. B. 3444, Relating to the creation of the West Virginia Semiquincentennial Commission and Fund.

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

On this question, the yeas and nays were taken (**Roll No. 534**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Honaker, Hornbuckle, C. Pritt and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3444) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 3448, Relating generally to probation officer field training.

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

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

“ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. PROBATION OFFICERS AND ASSISTANTS.

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

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of the order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of

appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants.

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

(d) A judge may not appoint any probation officer, assistant probation officer, or clerical assistant who is related to him or her either by consanguinity or affinity.

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

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

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance

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

(h) In recognition of the duties of their employment supervising confinement and supervised release, and the inherent arrest powers for violation of the same which constitute law enforcement, state probation officers are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C. § 926B.

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

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

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

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

(j) Any policy instituted pursuant to this subsection 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 defines in §17C-5-2 of this code.

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

(l) It is the intent of the Legislature in enacting the amendments to this section during the 2022 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

(m) The privileges authorized by the amendments to this section enacted during the 2022 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

(n) The Administrative Director of the Supreme Court of Appeals, or his or her designee, may hire field training probation officers to provide uniform training to new and current probation officers statewide. A field training probation officer shall have all the powers granted to a probation officer under this code while performing his or her duties.”

And,

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

Com. Sub. for H. B. 3448 – “A Bill to amend and reenact §62-12-5 of the Code of West Virginia, 1931, as amended, relating to probation officer field training; and granting field training probation officers the power of a full probation officer while on duty.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 535**), and there were—yeas 96, nays none,

absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Honaker, Hornbuckle, C. Pritt and Shamblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3448) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

S. B. 738 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-39-1, §19-39-2, §19-39-3, §19-39-4, §19-39-5, §19-39-6, §19-39-7, §19-39-8, §19-39-9, and §19-39-10, all relating to creation of the Right to Repair Act; creating a short title; defining terms; establishing jurisdiction of the Commissioner of Agriculture; establishing requirements; establishing limitations; establishing prohibitions; providing for rulemaking; establishing violations; imposing civil penalties; authorizing civil actions, penalties, and injunctive relief; and providing for applicability and effective date of article"; which was referred to the Committee on the Judiciary.

Motions

At the request of Delegate Householder, and by unanimous consent, the House took up **Com. Sub. for S. B. 205** for further consideration.

On motion of Delegate Linville, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 205 – "A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended; and to

amend said code by adding thereto nine new sections, designated as §17A-3-14a, §17A-3-14b, §17A-3-14c, §17A-3-14d, §17A-3-14e, §17A-3-14f, §17A-3-14g, §17A-3-14h, and §17A-3-14i, all relating to registration plates; authorizing special registration plates; establishing fees; authorizing the suspension of registration of any owner who displays a damaged or illegible plate or otherwise fails to comply with legal requirements; voiding license plates issued or renewed and paid for by worthless check; authorizing Division of Motor Vehicles to accept or authorize electronic signatures; authorizing waiver of certain costs and fees related to special registration plates by concurrent resolution of the Legislature; and authorizing rulemaking by the Division of Motor Vehicles.”

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

At the request of Delegate Householder, and by unanimous consent, the House took up **Com. Sub. for S. B. 463** for further consideration.

On motion of Delegate Linville, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 463 – “A Bill to amend and reenact §17E-1-9 of the Code of West Virginia, 1931, as amended, relating to commercial driver's license instruction permits.”

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

Special Calendar

Third Reading

Com. Sub. for S. B. 51, Requiring impact statement in certain instances of school closing or consolidation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 536**), and there were—yeas 84, nays 13, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Espinosa, Ferrell, W. Hall, Kump, Mallow, Miller, E. Pritt, Reynolds, Sheedy, Steele, Summers, Toney and Tully.

Absent and Not Voting: Honaker, Shamblin and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 51) passed.

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

Com. Sub. for S. B. 267, Updating law regarding prior authorizations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 537**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Honaker, Shamblin and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 267) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 267 – “A Bill to amend and reenact §5-16-7f of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §9-5-31; to amend and reenact §33-15-4s of said code; to amend and reenact §33-16-3dd of said code; to amend and reenact §33-24-7s of said code; to amend and reenact §33-25-8p of said code; and to amend

and reenact §33-25A-8s of said code, all relating to prior authorizations; defining terms; requiring prior authorizations and related communications to be submitted via an electronic portal; requiring electronic notification to the health care provider confirming receipt of the prior authorization; establishing timelines for compliance; providing communication via the portal regarding the current status of the prior authorization; reducing time frames for prior authorization requests; providing a time frame for a decision to be rendered after the receipt of additional information; providing a time frame for a claim to be submitted to audit; stating provisions pertaining to patient communications about step therapy protocols; establishing time frame for peer-to-peer appeals; reducing timeline for prior authorization appeal process; revising the percentage approval for a health care provider to be considered for an exemption from prior authorization criteria; revising time frame for prior authorization exemption process; removing limitation on prior authorization exemption that applied exemption to procedures used to justify granting of exemption; expanding auditing of prior authorization exemption process; requiring plan to give health care practitioner rationale for revocation of exemption; providing for limitations to exemption; removing criteria related to electronic submission of pharmacy benefits; amending effective date; requiring oversight and data collection by the Office of the Insurance Commissioner and the Inspector General; and providing for civil penalties.”

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

Com. Sub. for S. B. 476, Exempting managed care contracts from purchasing requirements; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on Health and Human Resources, and adopted, on page 1, line 3, by striking the period and inserting a colon, and the following:

“Provided, That for purposes of continuity of care, the Bureau for Medical Services may not:

(1) Disrupt existing WV Medicaid and WV Children's Health Insurance Plan enrollment within an existing managed care organization as part of any such purchasing exemption; or

(2) Redistribute or reassign membership of an existing managed care organization to any new, qualifying managed care entrant as part of any contract awarded pursuant to such exemption.

The Bureau for Medical Services shall integrate any and all new and qualifying managed care entrants into the State's auto-assignment logic for new members and shall publicize any eligible managed care organization for purposes of self-selection by the member. No plan shall have preferential assignment of new members and each plan will be assigned equally."

On motion of Delegate Summers, the bill was amended on page 1, section 9-5-31, line 3, by striking the word "contacts" and inserting in lieu thereof "contracts."

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 538**), and there were—yeas 80, nays 17, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bridges, Dean, Foggin, Garcia, Griffith, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Ross, Rowe, Skaff, Steele, Walker, Williams and Young.

Absent and Not Voting: Honaker, McGeehan and Shamblin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 476) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 476 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §9-5-31, relating to managed care contracts; providing that the Bureau for Medical Services is exempt from the requirements of the Purchasing Division with respect to managed care contracts; providing for exceptions; providing that the Bureau for Medical Services may not disrupt certain existing enrollments with managed care organizations; prohibiting the Bureau for Medical Services from redistributing or reassigning membership; providing for the integration of new managed care entrants; providing that no plan shall have preferential assignment of new members.”

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

On this question, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 86, nays 9, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Garcia, Hansen, Kirby, E. Pritt, Pushkin, Skaff, Steele, Walker and Williams.

Absent and Not Voting: DeVault, Foster, Honaker, McGeehan and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 476) takes effect from its passage.

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

Com. Sub. for S. B. 613, Relating generally to certificates of need; on third reading, coming up in regular order, was reported by the Clerk.

At 12:23 p.m., on motion of Delegate Householder, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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

Special Calendar

-continued-

Second Reading

S. B. 99, Relating to meetings among county boards of education; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 191, Relating to liability for payment of court costs as condition of pretrial diversion agreement; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.

§62-11C-9. Use of community corrections programs for those not under court supervision.

(a) Subject to the availability of community corrections programs in the county, a written pretrial diversion agreement, entered into pursuant to the provisions of ~~section twenty-two, article eleven, chapter sixty-one~~ §61-11-22 of this code, may require participation or supervision in a community corrections program as part of the prosecution and resolution of charges. A court ordered deferred adjudication proceeding, pursuant to the provisions of 61-11-22a of this code, may require, through terms

and conditions imposed upon a defendant, participation or supervision in a community corrections program

(b) Any pretrial diversion program for a defendant charged with a violation of the provisions of ~~section twenty-eight, article two, chapter sixty-one of this code, subsection (b) or (c), section nine of said article~~ §61-2-9b, §61-2-9c, or §61-2-28 of this code, where the alleged victim is a family or household member, or the provisions of ~~section two, article five, chapter seventeen-e~~ §17C-5-2 of this code ~~is to~~ shall require the person charged to appear before the presiding judge or magistrate and either acknowledge his or her understanding of the terms of the agreement or tender a plea of guilty or nolo contendere to the charge or charges. Upon the defendant's motion, the court shall continue the matter for the period of time necessary for the person charged to complete the pretrial diversion program. If the person charged successfully completes the pretrial diversion program, the matter is to be resolved pursuant to the terms of the pretrial diversion agreement. If the person charged fails to successfully complete the pretrial diversion program, the matter, if ~~he~~ a plea of guilty or nolo contendere has not been tendered, ~~is to~~ shall be returned to the court's docket for resolution. If the person charged has tendered a plea of guilty or nolo contendere and fails to successfully complete the pretrial diversion program, the court shall accept the tendered plea of guilty or nolo contendere and proceed to sentencing.

(c) No provision of this article may be construed to limit the prosecutor's discretion to prosecute an individual who has not fulfilled the terms of a written pretrial diversion by not completing the required supervision or participation in a community corrections program.

(d) Notwithstanding any provision of this code to the contrary, any person whose case is disposed of by entering into a pretrial diversion agreement, pursuant to the provisions of ~~section twenty-two, article eleven of this chapter~~ §61-11-22 of this code ~~shall be~~ is liable for any applicable court costs. Payment of the court costs shall be made a condition of the pretrial diversion agreement; Provided, That financial inability to pay court costs may not be a basis for denying a person a pretrial diversion.

(e) Subject to the availability of community corrections programs in the county, a written pretrial diversion agreement, entered into pursuant to the provisions of §61-11-22 of this code, may require participation or supervision in a community corrections program as part of the prosecution and resolution of charges. A court ordered deferred adjudication proceeding, pursuant to the provisions of §61-11-22a of this code, may require, through terms and conditions imposed upon a defendant, participation or supervision in a community corrections program

(f) Any deferred adjudication for a defendant charged with a violation of the provisions of §61-2-9b, §61-2-9c, or §61-2-28 of this code, where the alleged victim is a family or household member, or the provisions of §17C-5-2 of this code shall require the person charged to appear before the presiding judge or magistrate and either acknowledge his or her understanding of the terms of the agreement or tender a plea of guilty or nolo contendere to the charge or charges. Upon the defendant's motion, the court shall continue the matter and defer adjudication for the period of time necessary for the person charged to complete the period of deferred adjudication. If the person charged successfully completes the period of deferred adjudication, the matter is to be resolved pursuant to the terms and conditions of the deferred adjudication as outlined by the court. If it is determined by the court that the defendant did not successfully complete the period of deferred adjudication, the court may accept the tendered plea of guilty or nolo contendere and proceed to sentencing or impose such other terms and conditions as the court deems appropriate, pursuant to the provisions of §61-11-22a of this code.

(g) Notwithstanding any provision of this code to the contrary, any person whose case is disposed of by entering into a deferred adjudication, pursuant to the provisions of §61-11-22a of this code is liable for any applicable court costs. Payment of the court costs shall be made a term and condition of the deferred adjudication. Payment of restitution may be made a term and condition of the deferred adjudication: *Provided*, That financial inability to pay court costs and restitution may not be a basis for denying a person deferred adjudication.”

On motion of Delegate Fast, the amendment was amended on page 1, section 9, subsection (b), line 8, by striking through the following words: “charged with a violation of the provisions of §61-2-9b, §61-2-9c, or §61-2-28 of this code,”

On page 1, section 9, subsection (b), line 11, by striking through the following words: “or the provisions of §17C-5-2 of this code”

On page 1, section 9, subsection (b), line 13, by striking through the word “either”.

On page 1, section 9, subsection (b), line 13, by striking through the following words: “or tender a plea of guilty or nolo contendere”

On page 2, section 9, subsection (b), line 19, by striking through the following words: “, if a plea of guilty or nolo contendere has not been tendered”

On page 2, section 9, subsection (b), line 20, by striking through the following words: “If the person charged has tendered a plea of guilty or nolo contendere and fails to successfully complete the pretrial diversion program, the court shall accept the tendered plea of guilty or nolo contendere and proceed to sentencing.”

On page 2, section 9, subsection (e), line 35, by striking through the words “court ordered”.

On page 2, section 9, subsection (f), line 38, by striking through the following words: “for a defendant charged with a violation of the provisions of 61-2-9b, 61-2-9c, 61-2-28, of this code,”

And,

On page 2, section 9, subsection (f), line 42, by striking through the word “or” and inserting in lieu thereof the word “and”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 356, Authorizing DOT to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 451, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 452, Relating to Emergency Medical Services Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 457, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee, or member thereof, on such licensee's premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in §60-6-8 of this code;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper entertainment, conduct, or practice; ~~gambling or any slot machine, multiple coin console machine, multiple coin console slot machine, or device in the nature of a slot machine; however, various games, gaming, and wagering conducted by duly licensed persons of the West Virginia State Lottery Commission, charitable bingo games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-20-1 *et seq.* of this code, and charitable raffle games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-21-1 *et seq.* of this code, all of which are permissible on a licensee's licensed premises when operated in accordance with this code and rules promulgated thereunder.~~ A private resort hotel holding a license issued pursuant to §60-7-1 *et seq.* of this code, may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code, during hours of operation authorized by §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code.

(3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine, or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors, for or to any person known to be considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises, or in any rooms

directly connected therewith between the hours of 3:00 a.m. and 6:00 a.m. on weekdays, Saturdays, and Sundays, or, between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of age;

(7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues-paying member in good standing of the private club or a guest of the member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption, except as authorized by the commissioner;

(10)(A) Employ any person who is younger than 16 years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;

(B) Employ any person who is between 16 years of age and younger than 21 years of age who is not directly supervised by a person aged 21 or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve or give nonintoxicating beer, wine, or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the commissioner.

(b) It is lawful for any licensee to advertise price and brand in any news media or other means, outside of the licensee's premises.

(c) Any person who violates any of the provisions 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 imprisoned in jail for a period not to exceed one year, or both fined and imprisoned.”

The bill was then ordered to third reading.

S. B. 487, Extending additional modification reducing federal adjusted gross income; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 558, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 1. PRELIMINARY PROCEDURE.

§62-1-6a. Booking photographs of criminal defendants.

(a) Except as authorized by the provisions of this section, a law enforcement agency may not share on social media the booking photograph of an individual arrested for the alleged commission of a minor offense.

(b) As used in this section, unless context clearly indicates, otherwise:

‘Booking photograph’ means a photograph or still, non-video image of an individual taken, generated, or otherwise created by a law enforcement agency pursuant to an arrest or while an individual is in the agency’s lawful custody.

‘Law enforcement agency’ means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality of the state: *Provided*, That the Division of Corrections and Rehabilitation and its subordinate organizations

may not be considered a law enforcement agency for purposes of this section.

‘Social media’ means a publicly available Internet-based platform that allows a user to produce, post, or curate content and interact with other users via text, images, video, and audio, for the purpose of informing, sharing, promoting, collaborating, or networking.

‘Minor offense’ means an offense that:

Is a misdemeanor or nonviolent felony eligible for expungement as provided by §61-11-26(a) of this code, and not excepted from eligibility for expungement under §61-11-26(c) of this code: *Provided*, That, for purposes of this section, offenses under §17B-4-3 of this code and misdemeanor offenses under §17C-5-2 of this code, shall be considered minor offenses for purposes of this section.

(c) *Exceptions.* — A law enforcement agency may share on social media the booking photograph of an individual arrested for the alleged commission a minor offense, if:

(1) The individual is convicted of a criminal offense based upon the conduct for which the individual was in custody for at the time the booking photograph was taken;

(2) A law-enforcement agency has determined that the suspect is a fugitive or an imminent threat to an individual or to public safety and reasonably believes that releasing or disseminating the suspect’s booking photograph will assist in locating or apprehending the suspect or reducing or eliminating that threat; or

(3) A court of competent jurisdiction orders the release or dissemination of the booking photograph based upon a finding that doing so is in furtherance of a legitimate interest.

(d) A law-enforcement agency may not be subject to civil action or be held liable when the publication, release, or dissemination of a booking photograph was made by mistake of

fact or error, and that publication, release, or dissemination was done in good faith.

(e) A law-enforcement agency that shares on social media a booking photograph of an individual arrested for the suspected commission of any crime shall remove the booking photograph from its social media page within 14 days upon the request of the individual who is the subject of the social media post, or that individual's authorized representative, if any of the following have occurred:

(1) The criminal charge for which the booking photograph was taken has been dismissed;

(2) A grand jury has declined to return an indictment on the charge for which the booking photograph was taken; or

(3) A circuit court or jury has entered a judgment of acquittal on the charge for which the booking photograph was taken, or a court of competent jurisdiction has issued an order or opinion reversing, vacating, or otherwise nullifying the conviction for which the booking photograph was taken.”

The bill was then ordered to third reading.

S. B. 559, Relating to spousal privilege; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

S. B. 597, Allowing Workforce WV to hire classified service exempt employees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 688, Allowing BOE to hire retired teachers to assist with tutoring; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2905, Supplementing and amending appropriations to State Board of Education - State Department of

Education - Classroom Aide Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2907, Supplementing and amending appropriations to the Department of Administration, Division of General Services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2913, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2928, Supplementing and amending appropriations to DHHR, Division of Health; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3039, Making a supplementary appropriation to Adjutant General - State Militia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3073, Supplementing and amending appropriations to Adjutant General - State Militia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3553, Supplementing and amending appropriations to Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3563, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3564, Making a supplementary appropriation to the Division of Human Services - Energy Assistance; on second

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

First Reading

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

S. B. 146, Modifying regulations of peer-to-peer car sharing program,

S. B. 149, Exempting certain organizations from property taxation,

Com. Sub. for S. B. 151, Levying tax on pass-through entity's income,

S. B. 244, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public,

Com. Sub. for S. B. 294, Clarifying amount of deputy sheriff annual salary increase,

Com. Sub. for S. B. 345, Authorizing Department of Revenue to promulgate legislative rules,

S. B. 465, Increasing limit on moneys placed in county's rainy day fund,

Com. Sub. for S. B. 478, Relating to Jumpstart Savings Program,

S. B. 488, Aligning state and federal accreditation rules,

Com. Sub. for S. B. 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education,

S. B. 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs,

Com. Sub. for S. B. 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission,

Com. Sub. for S. B. 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission,

H. B. 3109, Supplementing and amending appropriations to the State Board of Education - State Department of Education,

And,

H. B. 3542, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund.

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

Committee Reports

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 422, Requiring public schools to publish curriculum online at beginning of each new school year,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 129, Limiting gubernatorial authority to spend certain federal funds without appropriation of Legislature,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 129) was referred to the Committee on Finance.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

Com. Sub. for S. C. R. 4, US Navy S1 Ira "Noon" Copley and Marie Copley Memorial Bridge,

And,

S. C. R. 8, US Army PV 2 Harold Richard Plumley Memorial Bridge,

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for S. C. R. 4 and S. C. R. 8) were each referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

H. C. R. 57, Requesting Department of Economic Development to create a plan of incentives to encourage small businesses in highly regulated states to relocate to WV,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 57) was referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

H. C. R. 59, Requesting a study to establish a motorsport events welcome center and implement a program to promote motorsport events in West Virginia,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 59) was referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

H. C. R. 60, Requesting the Joint Committee on Government and Finance study the economic and tourism impacts creating a cross state biking and hiking trail,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 60) was referred to the Committee on Rules.

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

S. B. 739, Relating to moratorium on carbon capture agreements,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 461, Relating to WV public employees grievance procedure,

And,

Com. Sub. for S. B. 573, Relating to child support guidelines and Support Enforcement Commission,

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

On motion for leave the following resolutions were introduced (Originating in the Committee on Technology and Infrastructure and reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which was read by their title, as follows:

By Delegates Linville and Cannon:

H. C. R. 65 - "Requesting the Joint Committee on Government and Finance study the effects of eliminating the mandatory inspection of motor vehicles, trailers, semitrailers, pole trailers, antique motor vehicles, and motorcycles registered in the state,"

By Delegates Linville and Cannon:

H. C. R. 66 - "Requesting the Joint Committee on Government and Finance study the effects of conservation easements on broadband deployment within the State of West Virginia,"

By Delegates Linville and Cannon:

H. C. R. 67 - "Requesting the Joint Committee on Government and Finance study the effects of using blockchain technology on vital public and government data security,"

By Delegates Linville and Cannon:

H. C. R. 68 - "Requesting the Joint Committee on Government and Finance study the effects of site preparedness on economic development and its potential draw of business investment in the State of West Virginia,"

And,

By Delegates Linville and Cannon:

H. C. R. 69 - "Requesting the Joint Committee on Government and Finance study the use of larger crews and continuous working hours on smaller roadway infrastructure construction and maintenance projects in an effort to lower overall costs and disruption to residents."

The Speaker referred the resolutions (H. C. R. 65, H. C. R. 66, H. C. R. 67, H. C. R. 68 and H. C. R. 69) were each referred to the Committee on Rules.

Leaves of Absence

At the request of Delegate Householder, and by unanimous consent, leave of absence for the day was granted Delegate Shamblin.

Miscellaneous Business

Delegate Espinosa noted to the Clerk that had he been present when the votes were taken on the passage of Com. Sub. for H. B. 2605, and the passage of and effective dates for Com. Sub. for H. B. 2640, Com. Sub. for H. B. 2648 and H. B. 3547, he would have voted "Yea" thereon.

At 5:54 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, March 8, 2023.

Wednesday, March 8, 2023

FIFTY-SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, March 7, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that S. B. 467, on First Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 121 and S. B. 533, on First Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2883, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2883 - "A Bill supplementing and amending Chapter eleven, Acts of the Legislature, Regular Session, 2022, known as the budget bill, as amended, in Title II from the appropriations of public moneys out of federal moneys

remaining unappropriated, to the Executive, Governor's Office, Coronavirus State Fiscal Recovery Fund, fund 8823, fiscal year 2023, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,"

With the recommendation that the committee substitute do pass.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 443, Directing payment of estate administration fee to State Auditor,

S. B. 444, Transferring moneys in WV Future Fund to General Revenue Fund,

Com. Sub. for S. B. 579, Providing payment to vendors who provided services to state,

And,

S. B. 678, Adding appropriations to DHHR, Division of Human Services,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (S. B. 443, S. B. 444, Com. Sub. for S. B. 579 and S. B. 678) were taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 522, Allocating percentage of county excise taxes for funding improvements to election administration,

And,

Com. Sub. for S. B. 561, Relating to administration of WV Drinking Water Treatment Revolving Fund Act,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (Com. Sub. for S. B. 522 and Com. Sub. for S. B. 561) were taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Criss, Chair of the Committee on Finance submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 446, Removing methanol and methanol fuel from definition of special fuel,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bill (S.B. 446) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 247, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act,

Com. Sub. for S. B. 258, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit,

Com. Sub. for S. B. 302, Relating to Law Enforcement Safety Act,

S. B. 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures,

Com. Sub. for S. B. 516, Relating to requirements for disclosure of donor contributions,

Com. Sub. for S. B. 568, Relating to Dangerousness Assessment Advisory Board,

And,

Com. Sub. for S. B. 631, Updating administration, funding, and requirements for federal elections held in WV,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (Com. Sub. for S. B. 247, Com. Sub. for S. B. 258, Com. Sub. for S. B. 302, S. B. 508, Com. Sub. for S. B. 516, Com. Sub. for S. B. 568 and Com. Sub. for S. B. 631) were taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 47, Creating Charter Schools Stimulus Fund,

Com. Sub. for S. B. 469, Providing funding for CPR instruction to high school students,

And,

Com. Sub. for S. B. 523, Clarifying purpose and use of Economic Development Project Fund,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (Com. Sub. for S. B. 47, Com. Sub. for S. B. 469 and Com. Sub. for S. B. 523) were taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Criss, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 293, Increasing fees charged by sheriff,

Com. Sub. for S. B. 593, Mandating cost of living salary adjustment policy for state employees,

Com. Sub. for S. B. 677, Clarifying role and responsibilities of State Resiliency Officer,

S. B. 737, Emergency Medical Services Act,

And,

S. B. 740, Relating to compensation and expense reimbursement for members of Legislature,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (Com. Sub. for S. B. 293, Com. Sub. for S. B. 593, Com. Sub. for S. B. 677, S. B. 737 and S. B. 740) were taken up for immediate consideration, read a first time, and ordered to second reading.

On motion for leave the following resolutions were introduced (Originating in the Committee on Economic Development and Tourism and reported with the recommendation that they each be

adopted, but that they first be referred to the Committee on Rules), which were read by their titles, as follows:

By Delegate Storch:

H. C. R. 76 - "Requesting That the Joint Committee on Government and Finance engage in a study concerning the feasibility of creating regional intra-state tourism districts for the purpose tailoring tourism development to the specifics of such regions,"

And,

By Delegate Storch:

H. C. R. 77 - "Requesting That the Joint Committee on Government and Finance engage in a study concerning the tourism related infrastructure and workforce issues post-COVID-19 pandemic in West Virginia."

The Speaker referred the resolutions (H. C. R. 76 and H. C. R. 77) to the Committee on Rules.

On motion for leave the following resolutions were introduced (Originating in the Committee on Economic Development and Tourism and reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which was read by their title, as follows:

By Delegate Howell:

H. C. R. 70 - "Requesting That the Joint Committee on Government and Finance commission a study by the Department of Economic Development to assess whether municipality and/or county selective regulation of short-term rental properties is violating constitutionally guaranteed private property and contract rights and if so, whether there is necessity for state legislation to prevent such unconstitutional violations by municipalities and/or counties from such violation of constitutionally guaranteed private property and contract rights,"

By Delegate Howell:

H. C. R. 73 - "Requesting that the Joint Committee on Government and Finance commission a study by the Department

of Economic Development to assess whether amending the state tax code to provide state tax incentives to off-set federal excise taxes placed upon tire manufacturing, sport fishing equipment manufacturing, bow, quiver, broadhead, and point manufacturing, arrow shaft manufacturing, vaccine manufacturing, feed stock manufacturing, fuel refinery manufacturing and/or any other type of manufacturing not currently producing in West Virginia would raise the likelihood of new investment in such manufacturing in West Virginia,”

By Delegate Howell:

H. C. R. 74 - “Requesting That the Joint Committee on Government and Finance commission a study by designated representatives of the West Virginia Legislature and the Department of Economic Development to assess whether the Code of West Virginia, 1931, as amended, contains outdated, excessive, superfluous, dysfunctional or unnecessary provisions which stifle innovation, impede market entry by private entrepreneurs, disincentivize investment and preclude the maximization of the productive potential of free enterprise and, if so, to identify such provisions for recommended repeal by the West Virginia Legislature,”

And,

By Delegate Howell:

H. C. R. 75 - “Requesting That the Joint Committee on Government and Finance engage in a study concerning the construction of welcome centers on roads that are part of the Appalachian Development Highways System and other scenic four lane highways and whether such welcome centers would benefit economic development opportunities for tourism in West Virginia.”

The Speaker referred the resolutions (H. C. R. 70, H. C. R. 73, H. C. R. 74 and H. C. R. 75) to the Committee on Rules.

Delegate Ellington, Chair of the Committee on Education submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 489, Requiring BOE provide free feminine hygiene products in certain grades,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In accordance with the former direction of the Speaker, the bill (S. B. 489) was referred to the Committee on Finance.

Delegate Householder asked unanimous consent to return to further consideration of **Com. Sub. for H. B. 2883**, and that it be taken up for immediate consideration and read a first time, which consent was not given, objection being heard.

Delegate Householder then so moved, and the motion was adopted.

The bill (Com. Sub. for H. B. 2883) was read a first time, and ordered to second reading.

Messages from the Executive

Communication from His Excellency, the Governor, advised that on March 7, 2023, he approved **Com. Sub. for H. B. 2526**, **H. B. 3272** and **S. B. 609**.

Communication from the Clerk of the Senate to His Excellency, the Governor, advised that S. B. 131, Com. Sub. for S. B. 188, S. B. 246, Com. Sub. for S. B. 430, Com. Sub. for S. B. 490, S. B. 510, Com. Sub. for S. B. 526, S. B. 591, Com. Sub. for S. B. 594 and S. B. 679 were presented to the Governor on March 8, 2023.

The Clerk announced that H. B. 3519, H. B. 3520, H. B. 3521, H. B. 3522, H. B. 3523, H. B. 3527 and H. B. 3528 were presented to the Governor on March 8, 2023.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2569, Establishing the Motorsport Responsibility Act.

Delegate Householder moved that the House of Delegates concur in the following amendment of the bill by the Senate:

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

“ARTICLE 19. MOTORSPORT RESPONSIBILITY ACT.

§20-19-1. Legislative purposes.

The West Virginia Legislature finds that motorsport activities are engaged in by a large number of citizens of West Virginia and that such activities also attract to West Virginia a large number of nonresidents, significantly contributing to the economy of West Virginia. Since it is recognized that there are inherent risks in motorsport activities which should be understood by participants therein and which are essentially impossible for the operators of motorsport businesses to eliminate, it is the purpose of this article to define those areas of responsibility and those affirmative acts for which the operators of motorsport businesses shall be liable for loss, damage, or injury suffered by participants, and to further define those risks which the participants expressly assume and for which there can be no recovery. It is the intent of the Legislature to expand the liability protections afforded with respect to motorsports and to not eliminate any other liability protections that may be available under statutory or common law.

§20-19-2. Definitions.

In this article, unless a different meaning plainly is required:

(1) 'Driver training' means qualified instruction to enhance a vehicle operator's ability to learn vehicle control, provided by a motorsport facility.

(2) 'Lessee' means any qualified person or organization with the necessary licenses and liability insurance meeting the motorsport operator's lease requirements to operate a motorsport facility.

(3) 'Motorized vehicle' means an automobile, motorcycle, or any other vehicle propelled by power, other than muscular power, used to transport persons and which operates within the confines of a motorsport facility.

(4) 'Motorsport activities' means driver training, vehicle storage, competitive racing, non-competitive driving events, exhibitions of speed, fairs or shows using motorized vehicles, or other forms of recreation involving the use of motor vehicles, including motorcycles.

(5) 'Motorsport facility' means a speedway or racetrack designed and intended for motorsport activities.

(6) 'Motorsport operator' means any person, partnership, corporation, lessee, or other organization, or any combination thereof offering motorsport activities.

(7) 'Participant' means any person or organization using the services of a motorsport facility including, but not limited to, spectators, vehicle operators using either their own personally owned vehicle or a vehicle owned by the motorsport facility, or vehicle passengers using either their own personally owned vehicle or a vehicle owned by the motorsport facility.

(8) 'Spectator area' means a specified area within a motorsport facility intended for admission to the general public, whether or not an admission price is charged, or to which admitted persons of the general public have unrestricted access, including the grandstands and other general admission seating or viewing areas.

§20-19-3. Duties of motorsport operators.

(a) Every motorsport operator shall:

(1) Mark for identification purposes all equipment and vehicles used in the business;

(2) Maintain all equipment and vehicles used in the offering of motorsport activities in such condition that the equipment and vehicles are safe to operate or use as intended and recommended by the manufacturer;

(3) Provide facilities, equipment, and services conforming to safety and other requirements established by the rules promulgated by the Department of Economic Development;

(4) Provide or prepare facilities, equipment, and services for motorsports use as advertised or as agreed to by the motorsport operator and the participant;

(5) Procure and maintain commercial general liability insurance against claims for personal injury, death, and property damages occurring upon, in, or about the motorsport facility which affords protection to the limit of not less than \$1 million for injury or death of a single person, to the limit of \$2 million in the aggregate, and to the limit of not less than \$50,000 for property damage; and

(6) Maintain records for a period of at least three years from the date of the creation of the record of:

(A) Proof of insurance;

(B) Inspection reports;

(C) Maintenance records; and

(D) Participant acknowledgement of risks and duties.

§20-19-4. Duties of motorsport participants.

(a) All participants:

(1) Shall comply with the rules or regulations established for use by the motorsport operator;

(2) Shall wear all safety equipment as recommended by the motorsport operator, or which might otherwise be required by law;

(3) Shall obey all rules or instructions announced by the motorsport operator with regard to the safe operation of the motorized vehicle he or she is operating;

(4) Shall, as to the motorsport operator, expressly assume the risk of and legal responsibility for any injury, loss, or damage to person or property which results from participation in operating a motorized vehicle, and caused by any of the following:

(A) Variations in terrain, slope, or angle of terrain including elevation changes;

(B) Surface or subsurface conditions including, but not limited to, rocks or debris;

(C) Turns in the racetrack; and

(D) Collisions with retaining walls, tire walls, trees, fences, other vehicles, or any property provided by the motorsport operator.

(b) Each participant shall have the sole individual responsibility for:

(1) Knowing the range of his or her ability to negotiate the course of the motorsport facility;

(2) Operating the motorized vehicle within the limits of the participant's own ability;

(3) Heeding all posted warnings;

(4) Operating only within the designated area and designated times as provided by the motorsport operator; and

(5) Refraining from acting in a manner which a reasonable person would believe to be likely to cause or contribute to the injury of any person.

§20-19-5. Liability of motorsport operators.

(a) A motorsport operator is liable for injury, loss, or damage caused by failure to follow the duties set forth in §20-19-3 of this code where the violation of duty is the proximate cause of the injury, loss, or damage suffered.

(b) A motorsport operator is not liable for any injury, loss, or damage to the extent caused by the negligence of any person who is not an agent or employee of the motorsport operator.

(c) A motorsport operator is not liable for any injury, loss, or damage to the extent caused by a participant's violation of any duty described in §20-19-4 of this code.

§20-19-6. Liability of motorsport participants.

(a) A participant is not liable for any injury, loss, or damage resulting from violations of the duties established in §20-19-4 of this code where the violation of the duty constitutes simple negligence on the part of the participant, or where the injury, loss, or damage is a result of the risks inherent in motorsports.

(b) A participant is liable for injury, loss, or damage resulting from violations of the duties established in §20-19-4 of this code where the violation of the duty constitutes gross negligence, willful and wanton conduct, or intentional acts on the part the participant, and is the proximate cause of the injury, loss, or damage suffered.

§20-19-7. Rules.

The Department of Economic Development shall promulgate rules pursuant to §29A-1-1 *et seq.* of this code, with respect to motorsport facilities operating in the state, which shall include at a minimum: (a) Safety requirements for equipment; (b) safety requirements for the design of racing surfaces; (c) safety requirements for the provision of run-off areas; (d) requirements

for fire and emergency services; and (e) requirements for signage. The rules shall be promulgated and designed for the purpose of developing motorsport facilities as a recreational activity and additional tourist attraction in West Virginia and shall be approved by the West Virginia Motorsport Committee.

§20-19-8. No abrogation of common law and statutory defenses.

In a proceeding brought against a motor sports operator or participant, in addition to the liability protections provided for under this article, a motor sports operator or participant may assert any and all common law, statutory, or other defenses that may be available. A motorsports operator may require participants to sign anticipatory release and waiver of liability forms as a condition of participating as a spectator or vehicle operator, which signed waiver forms shall be admissible at trial in any action for damages by or on behalf of the person who executed the forms.”

And,

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

Com. Sub. for H. B. 2569 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-19-1, §20-19-2, §20-19-3, §20-19-4, §20-19-5, §20-19-6, §20-19-7, and §20-19-8, all relating to establishing the Motorsport Responsibility Act; providing legislative findings; defining terms; setting forth duties of motorsport operators; setting forth duties of motorsport participants; setting forth the liability of motorsport operators; setting forth the liability of motorsport participants; and providing rule-making authority.”

On the motion to concur in the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 540**), and there were—yeas 64, nays 32, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Chiarelli, Coop-Gonzalez, Dean, Dillon, Fast, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hillenbrand, Hornbuckle, Kirby, Longanacre, Martin, Miller, Petitto, Phillips, E. Pritt, Ross, Rowe, Sheedy, Skaff, Street, Toney, Tully, Vance, Walker, Williams and Young.

Absent and Not Voting: DeVault, Mallow, Nestor and Ward.

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 541**), and there were—yeas 85, nays 11, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Chiarelli, Coop-Gonzalez, Dillon, Fast, Foggin, Ross, Rowe, Sheedy, Street, Toney and Vance.

Absent and Not Voting: DeVault, Mallow, Nestor and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2569) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2754, Relating to immunizations performed in a pharmacy.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2817, Relating to Public Service Commission jurisdiction over alternative fuel for motor vehicles.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2848, Water and Sewer Operator licensing reciprocity.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2870, Correcting a reference relating to siting certificates for certain electric generating facilities.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 2906, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2910, Making a supplementary appropriation to the Department of Administration, Public Defender Services.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 2015, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund.

A message from the Senate, by

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

Com. Sub. for H. B. 2017, Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources.

On motion of Delegate Householder, the House of Delegates concurred in the following amendment of the bill by the Senate, with further title amendment.

On page 2, section 48, line 39, by striking out “\$20,000” and inserting in lieu thereof “\$25,000”.

And,

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

Com. Sub. for H. B. 2017 – “A Bill to amend and reenact §5-10-48 of the code of West Virginia, 1931, as amended, relating to allowing certain retired state employees to render certain post-retirement employment with the Department of Health and Human Resources under certain circumstances; increasing the maximum compensation that may be earned by certain retired public employees who accept employment from a participating employer without suspending his or her retirement annuity; and allowing certain retired state employees to render certain post-retirement

employment with the Department of Health and Human Resources under certain circumstances.”

With the further amendment, sponsored by Delegate Criss, amending the title of the bill to read as follows:

Com. Sub. for H. B. 2917 - “A Bill to amend and reenact §5-10-48 of the code of West Virginia, 1931, as amended, relating to post-retirement employment by certain retirants; allowing certain retired state employees to render certain post-retirement employment with the Department of Health and Human Resources under certain circumstances; and increasing the amount that may be earned by certain retirants in certain post-retirement employment without requiring suspension of retirement annuity.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 542**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, Mallow, Nestor and Ward.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2917) passed.

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

On this question, the yeas and nays were taken (**Roll No. 543**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, Mallow, Nestor and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2917) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3066, Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools.

A message from the Senate, by

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

H. B. 3141, Relating to the practice of dentistry.

A message from the Senate, by

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

Com. Sub. for H. B. 3211, Relating to authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the Municipal Police Officer and Firefighter Retirement System.

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

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

“ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-27a. Credit toward retirement for member’s accrued annual or sick leave days.

(a) For purposes of this section, an annual leave or sick leave day shall be the equivalent of eight hours of leave.

(b) Any member accruing annual leave or sick leave days may, after the effective date of this section, elect to use the days which stand to the member's credit with the member's last covered employment employer at the time of retirement to acquire additional credited service in this retirement system. The days shall be applied on the basis of one days' credit granted for each one day of accrued annual or sick leave days, with each month of retirement service credit to equal 20 days and with any remainder of 10 days or more to constitute a full month of additional credit and any remainder of less than 10 days to be dropped and not used, notwithstanding any provisions of this code to the contrary. The credited service shall be allowed and not considered to controvert the requirement of no more than 12 months' credited service in any year's period.

(c) Members employed by any covered employment employer with a policy for the accrual of unused sick and annual leave which is more generous than that of the State of West Virginia for its state agency employees shall receive service credit only for accrued unused sick and annual leave as provided for by the State of West Virginia for state employees who are covered by the rules of the West Virginia Division of Personnel. If the member is paid in a lump sum for accrued unused leave, the Board shall not consider the lump sum payment as annual compensation in computing a member's final average salary."

And,

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

Com. Sub. for H. B. 3211 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-27a, relating to authorizing service credit for unused accrued annual or sick leave days in the West Virginia Municipal Police Officers and Firefighters Retirement System; defining an annual leave or sick leave day as eight hours; authorizing service credit for unused accrued annual or sick leave

days in the West Virginia Municipal Police Officers and Firefighters Retirement System; and limiting credit for accrued annual or sick leave days to the policy offered by the State of West Virginia for its state employees who are covered by the rules of the West Virginia Division of Personnel.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 544**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, Nestor, E. Pritt and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3211) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3337, Prohibiting additional drug and alcohol treatment facilities and services in a certain county.

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

On page 1, section 9, line 4, by striking out “(c)(23)”;

On page 1, section 9, line 8, by striking out the word “and”;

And,

On page 1, section 9, line 13, by striking out “(b)(24)”.

And,

On page 1, section 9, lines 15-18, by striking out all of subdivision (5) and adding in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

“(5) Add licensed substance abuse treatment beds in any county which already has greater than 250 licensed substance abuse treatment beds.”

And,

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

Com. Sub. for H. B. 3337 – “A Bill to amend and reenact §16-2D-9 of the Code of West Virginia, 1931, as amended, relating to prohibiting a certificate of need; prohibiting additional drug and alcohol treatment facilities and services in certain counties.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 545**), and there were—yeas 77, nays 19, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Bridges, Coop-Gonzalez, Dittman, Fluharty, Foster, Garcia, Hansen, Holstein, Hornbuckle, Martin, E. Pritt, Pushkin, Rowe, Skaff, Summers, Tully, Walker, Williams and Young.

Absent and Not Voting*: Capito, Hardy, Mallow and Nestor.

*The Speaker announced that Delegate Walker’s vote did not register and she is recorded as “Nay”.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3337) passed.

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

On this question, the yeas and nays were taken (**Roll No. 546**), and there were—yeas 85, nays 12, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dittman, Fluharty, Garcia, Hansen, Hornbuckle, Pushkin, Skaff, Tully, Walker, Williams and Young.

Absent and Not Voting: Hardy, Mallow and Nestor.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3337) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 3396, Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways.

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

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

That the total appropriation for the fiscal year ending June 30, 2023, to fund 9017, fiscal year 2023, 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

110 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2023 Org 0803

	Appropriation	State Road Fund
8 Interstate Construction.....	27800	70,000,000
9 Other Federal Aid Programs.....	27900	40,000,000
10 Appalachian Programs.....	28000	80,000,000

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 547**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, Hardy, Mallow, Nestor and Steele.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3396) passed.

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

On this question, the yeas and nays were taken (**Roll No. 548**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Hardy, Mallow, Nestor and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3396) takes effect from its passage.

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

A message from the Senate, by

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

S. B. 142, Modifying procedures to settle estates of decedents.

A message from the Senate, by

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

Com. Sub. for S. B. 439, Establishing design-build program for DEP.

A message from the Senate, by

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

Com. Sub. for S. B. 490, Patrol Officer Cassie Marie Johnson Memorial Act.

A message from the Senate, by

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

Com. Sub. for S. B. 526, Including Alzheimer's disease in existing public health programs.

A message from the Senate, by

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

S. B. 679, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes.

A message from the Senate, by

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

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability.

On motion of Delegate Householder the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 730 - “A Bill to amend and reenact §16-29E-3, §16-29E-4, §16-29E-5 and §16-29E-7 of the Code of West Virginia, as amended, all relating to the Legislative Oversight Commission on Health and Human Resources Accountability; defining terms; applying authority of commission to successor agencies of the Department of Health and Human Resources; continuing commission; removing limitation on commission review; expanding authority of commission; permitting commission to require reports; and setting forth instructions for reporting.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 549**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foster, Hardy, Kelly, Longanacre, Mallow, Nestor and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 730) passed.

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

On this question, the yeas and nays were taken (**Roll No. 550**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foster, Hardy, Kelly, Longanacre, Lucas, Mallow, Nestor and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 730) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

Com. Sub. for S. C. R. 11 – “Requesting the Division of Highways name a stretch of State Route 3 in Summers County, beginning at milepost 17.25, which is the intersection of Huston Road and State Route 3, and ending at milepost 19.96, which is the intersection of Graham House Road and State Route 3, the ‘U. S. Army SGT Brian Christopher Karim Memorial Road’”.

Resolutions Introduced

Resolutions were introduced and severally referred as follows:

By Delegates Vance, Burkhammer, Toney, Brooks, Kirby, Worrell, Holstein, Dean, Fast, A. Hall and Longanacre:

H. C. R. 71 – “Proclaiming November 7th to be designated annually as ‘Pastor Appreciation Day’ in West Virginia in tribute to those who, through their unwavering commitment to service and faith in God, strive to enrich the lives of the people in their congregations and communities”; to the Committee on Rules.

And,

By Delegates Mazzocchi, Adkins, Anderson, Brooks, Clark, Cooper, Crouse, Dean, DeVault, Ferrell, Forsht, Hillenbrand, Hite, Holstein, Honaker, Hott, Howell, Jeffries, Jennings, Kelly, Kirby, Lucas, Mallow, Marple, Miller, Nestor, Petitto, C. Pritt, Ridenour, Sheedy, Steele, Storch, Tully, Ward, Westfall, Willis, Worrell and Zatezalo:

H. C. R. 72 – “Requesting that the Joint Committee on Government and Finance study the effect of the establishment of the Whole-Home Repairs Act of 2023 and the Act's efficacy to address the issues of blighted homes, workforce retention, seniors aging in place, and emigration away from our area”; to the Committee on Rules.

Special Calendar

Third Reading

S. B. 99, Relating to meetings among county boards of education; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 551**), and there were—yeas 73, nays 22, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Chiarelli, Dillon, Dittman, Fluharty, Garcia, A. Hall, Hanna, Hornbuckle, Kimble, Martin, E. Pritt, Sheedy, Skaff, Street, Summers, Thorne, Toney, Vance, Walker, Williams and Young.

Absent and Not Voting: Horst, Kelly, Mallow, Nestor and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 99) passed.

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

Com. Sub. for S. B. 191, Relating to liability for payment of court costs as condition of pretrial diversion agreement; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 552**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Horst, Kelly, Mallow, Nestor, Williams and Willis.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 191) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 191 - “A Bill to amend and reenact §62-11C-9 of the Code of West Virginia, 1931, as amended, relating to liability for payment of court costs as a condition of a pretrial diversion agreement; and declaring that financial inability to pay court costs cannot be a basis for denying a pretrial diversion agreement; correcting a reference to a code section governing deferred prosecution agreements; ; relating to liability for payment of court costs as a condition of deferred adjudication; relating to liability for payment of restitution as a discretionary condition of a deferred adjudication; declaring that deferred adjudications may require participation in community corrections; relating to the procedure of handling deferred adjudications when community corrections are utilized; and declaring that financial inability to pay court costs and restitution cannot be a basis for denying a deferred adjudication.”;

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

Com. Sub. for S. B. 356, Authorizing DOT to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 553**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, W. Hall, Hornbuckle, Kirby, Mallow, Nestor, Ross and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 356) passed.

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

On this question, the yeas and nays were taken (**Roll No. 554**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, W. Hall, Hornbuckle, Kirby, Mallow, Nestor and Ross.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 356) takes effect from its passage.

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

Com. Sub. for S. B. 451, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 555**), and there were—yeas 96, nays none,

absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle, Linville, Mallow and Nestor.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 451) passed.

A title amendment was recommended by the Committee on Finance, and adopted, as follows:

Com. Sub. for S. B. 451 — “A Bill to amend and reenact §18-7A-3, §18-7A-13a, §18-7A-15, and §18-7A-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7B-2 and §18-7B-17 of said code, all relating to retirement systems for teachers and certain other educational employees; defining terms; requiring certain notifications; providing for public charter schools as employer in systems; and limiting eligibility for certain transfers of service from the Public Employees Retirement System to the Teachers Retirement System.”

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

S. B. 452, Relating to Emergency Medical Services Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 556**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Hansen, Hornbuckle, Linville, Longanacre, Mallow and Nestor.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 452) passed.

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

S. B. 457, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 557**), and there were—yeas 72, nays 24, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Bridges, Brooks, Burkhammer, Butler, Coop-Gonzalez, Dillon, Dittman, Fast, Ferrell, Griffith, A. Hall, Hanna, Jeffries, Keaton, Kirby, Mazzocchi, Pinson, Ross, Steele, Street, Toney, Vance, Ward and Worrell.

Absent and Not Voting: Hornbuckle, Longanacre, Mallow and Nestor.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 457) passed.

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

S. B. 487, Extending additional modification reducing federal adjusted gross income; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 558**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Longanacre, Mallow and Nestor.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 487) passed.

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

Com. Sub. for S. B. 558, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 559**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon, Hardy and Pinson.

Absent and Not Voting: Linville, Mallow, Nestor and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 558) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 558 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-1-6a, relating to prohibiting law enforcement agencies of the state from posting on social media the booking photographs of individuals alleged to have committed a minor offense; clarifying that the Division of Corrections and Rehabilitation and its subordinate organizations may not be considered a law enforcement agency for purposes of this section; providing exceptions; and requiring removal of booking photographs in certain instances.”

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

S. B. 597, Allowing Workforce WV to hire classified service exempt employees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 560**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Linville, Mallow, Nestor and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 597) passed.

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

Com. Sub. for S. B. 613, Relating generally to certificates of need; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 688, Allowing BOE to hire retired teachers to assist with tutoring; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 561**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Linville, Mallow and Nestor.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 688) passed.

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

Com. Sub. for H. B. 2905, Supplementing and amending appropriations to State Board of Education - State Department of Education - Classroom Aide Program; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 562**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Fehrenbacher, Mallow, Nestor, Ridenour and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2905) passed.

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

On this question, the yeas and nays were taken (**Roll No. 563**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Fehrenbacher, Mallow, Nestor, E. Pritt, Ridenour and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2905) takes effect from its passage.

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

H. B. 2907, Supplementing and amending appropriations to the Department of Administration, Division of General Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 564**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Fehrenbacher, Mallow, Nestor, Ridenour and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2907) passed.

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

On this question, the yeas and nays were taken (**Roll No. 565**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Householder.

Absent and Not Voting: Foggin, Mallow, Nestor, Ridenour, Smith and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2907) takes effect from its passage.

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

H. B. 2913, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 566**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, Mallow, Nestor, Smith and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2913) passed.

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

On this question, the yeas and nays were taken (**Roll No. 567**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, Nestor, Smith and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2913) takes effect from its passage.

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

Com. Sub. for H. B. 2928, Supplementing and amending appropriations to DHHR, Division of Health; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 568**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: DeVault, Hornbuckle, Mallow, Nestor, Skaff, Ward, Williams and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2928) passed.

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

On this question, the yeas and nays were taken (**Roll No. 569**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: DeVault, Hornbuckle, Mallow, Nestor, Skaff, Ward, Williams and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2928) takes effect from its passage.

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

H. B. 3039, Making a supplementary appropriation to Adjutant General - State Militia; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 570**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, DeVault, Mallow, Nestor, Skaff, Ward, Williams and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3039) passed.

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

On this question, the yeas and nays were taken (**Roll No. 571**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, DeVault, Mallow, Nestor, Skaff, Ward, Williams and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3039) takes effect from its passage.

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

H. B. 3073, Supplementing and amending appropriations to Adjutant General - State Militia; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 572**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow, Nestor, Ward, Williams and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3073) passed.

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

On this question, the yeas and nays were taken (**Roll No. 573**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow, Nestor, Ward and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3073) takes effect from its passage.

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

H. B. 3553, Supplementing and amending appropriations to Department of Health and Human Resources; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 574**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Bridges, Mallow and Nestor.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3553) passed.

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

On this question, the yeas and nays were taken (**Roll No. 575**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Bridges, Mallow and Nestor.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3553) takes effect from its passage.

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

H. B. 3563, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 576**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Steele and Vance.

Absent and Not Voting: Bridges, Mallow and Nestor.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3563) passed.

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

On this question, the yeas and nays were taken (**Roll No. 577**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Steele and Vance.

Absent and Not Voting: Mallow and Nestor.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3563) takes effect from its passage.

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

H. B. 3564, Making a supplementary appropriation to the Division of Human Services - Energy Assistance; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 578**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Foster, Longanacre, Ridenour, Steele and Vance.

Absent and Not Voting: Mallow and Nestor.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3564) passed.

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

On this question, the yeas and nays were taken (**Roll No. 579**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Butler, Longanacre, Steele and Vance.

Absent and Not Voting: Mallow and Nestor.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3564) takes effect from its passage.

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

At 1:39 p.m., on motion of Delegate Householder, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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

Special Calendar

-continued-

Second Reading

S. B. 146, Modifying regulations of peer-to-peer car sharing program; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking everything after the enacting clause and inserting the provisions of the strike and insert amendment:

“ARTICLE 6F. PEER-TO-PEER CAR SHARING PROGRAMS.

§17A-6F-1. Scope.

This article is intended to govern the intersection of peer-to-peer car services, the state-regulated business of insurance, and state and local taxation of the business transaction- and the airport and airport authorities authority to regulate peer-to-peer car services provided to airport customers This article does not void, abrogate, restrict, or affect any requirements of §17A-6D-1 *et seq.* of this code relating to daily passenger rental car business or §17A-6A-1 *et seq.* of this code relating to motor vehicle dealers, distributors, wholesalers, and manufacturers.

§17A-6F-2. Definitions.

As used in this article:

‘Peer-to-peer car sharing’ means the authorized use of a vehicle by an individual other than the vehicle’s owner through a peer-to-peer car sharing program. ‘Peer-to-peer car sharing’ is not a ‘daily passenger rental car business’ as licensed by the provisions of §17A-6D-1 *et seq.* of this code.

‘Peer-to-peer car sharing program’ means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. ‘Peer-to-peer car sharing program’ does not mean a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle. For purposes of this section, ‘hardware’ does not mean a motor vehicle as defined by the provisions of §17A-1-1(b). ‘Peer-to-peer car sharing program’ does not mean a ‘daily passenger rental car business’ as licensed by the provisions of §17A-6D-1 *et seq.* of this code. ‘Peer-to-peer car sharing program’ does not include a program provided to a business’s own employees.

‘Car sharing program agreement’ means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. ‘Car sharing program agreement’ does not mean ‘master rental agreement’ or ‘rental agreement’ as used in §17A-6D-1 *et seq.* of this code.

‘Shared vehicle’ means a vehicle that is available for sharing through a peer-to-peer car sharing program. ‘Shared vehicle’ does not mean a rental car or a rental vehicle as used in a ‘daily passenger rental car business’ licensed by the provisions of §17A-6D-1 *et seq.* of this code.

‘Shared vehicle driver’ means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement.

‘Shared vehicle owner’ means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

‘Car sharing delivery period’ means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

‘Car sharing period’ means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time, and in either case ends at the car sharing termination time.

‘Car sharing start time’ means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

‘Car sharing termination time’ means the earliest of the following events:

The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared

vehicle driver as communicated through a peer-to-peer car sharing program, and which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or

When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

§17A-6F-3. Insurance coverage during car sharing period.

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b) of this section, of a shared vehicle owner for bodily injury or property damage to third parties and uninsured and underinsured motorist ~~and personal injury protection~~ losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amounts may not be less than ~~\$750,000~~ \$300,000, the minimum of applicable limits required by state law as set forth in § 17D-4-2 and § 33-6-31 of this Code.

(b) Notwithstanding the definition of 'car sharing termination time' as defined in this article, the assumption of liability under subsection (a) of this section does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred; or

(2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of 'car sharing termination time' as defined in this article, the assumption of liability under subsection (a) of this section would apply to bodily injury, property damage, uninsured and underinsured motorist, ~~or personal injury protection~~ losses by damaged third parties in the same manner required by §17D-4-2 and §33-6-31 of this code.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage which amounts may not be less than the amounts set forth in subsection (a) §17D-4-2 and §33-6-31 of this code and either:

(1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(2) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance described in subsection (e) of this section that is satisfying the insurance requirement of subsection (d) of this section shall be the primary insurance during each car sharing period. If a claim occurs during the car sharing period in another state with minimum financial responsibility limits higher than required by §17D-4-2 of this code, the coverage maintained under subsection (e) of this section shall satisfy the minimum financial responsibility limits of such other state, up to the applicable policy limits that may exceed the minimum financial responsibility limits.

(g) The insurer, insurers, or peer-to-peer car sharing program providing coverage under ~~shall assume primary liability for a claim when it is, in whole or in part, providing the insurance required~~

~~under~~ subsections (d) and (e) of this section ~~and~~ shall assume primary liability for a claim when:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss, ~~and (2) The~~ and the peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by this article §17A-6F-6 of this code; or

(2) A dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by the definition of car sharing termination time as defined in §17A-6F-2 of this code.

~~(3)~~ (h) The insurer, insurers, or A peer-to-peer car sharing program providing coverage under subsection (g) of this section may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

~~(h)~~ (i) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (d) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in this section.

~~(i)~~ (j) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

~~(j)~~ (k) Nothing in this article may be interpreted as either limiting or restricting:

(1) The liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that

results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(2) The ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

~~(k) If a dispute arises as to whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has occurred, the peer to peer car sharing program shall extend primary coverage for the loss. If during the investigation of the claim it becomes apparent that one of the parties to the car sharing program agreement was negligent, engaged in misrepresentation, or is otherwise responsible for the loss, the car sharing program may seek recovery from one or both parties directly through subrogation~~

§17A-6F-5. Exclusions for personal vehicle liability insurance policy.

(a) A motor vehicle insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- ~~(2) Personal injury protection coverage~~
- ~~(3)~~ (2) Uninsured and underinsured motorist coverage;
- ~~(4)~~ (3) Medical payments coverage;
- ~~(5)~~ (4) Comprehensive physical damage coverage; and
- ~~(6)~~ (5) Collision physical damage coverage.

(b) Nothing in this article ~~shall~~ may be construed as invalidating or limiting an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use.

(c) Nothing in this article may be interpreted as either limiting or restricting an insurer's ability to exclude insurance coverage from any insurance policy or an insurer's ability to underwrite any insurance policy pursuant to § 33-6A-1 *et seq.* of this code.

§17A-6F-7. Exemption; vicarious liability.

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability ~~in accordance~~ consistent with 49 U.S.C. §30106 and under any state or local law that imposes liability solely based on vehicle ownership.

§17A-6F-13. Registration, notification, and automobile safety recalls.

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(2) Notify the shared vehicle owner of the requirements of subsection (b) of this section;-and

(3) Notify the shared vehicle owner that the shared vehicle owner's personal insurance may exclude peer-to-peer car sharing activity.

(b)(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not

make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.”

The bill was then ordered to third reading.

S. B. 149, Exempting certain organizations from property taxation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 151, Levying tax on pass-through entity's income; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 4, section 3a, line 44, by striking “W.Va. Code”; and

On page 4, section 3a, line 52, by striking “W.Va. Code”; and

On page 4, section 3a, line 60, by striking subsection (p) in its entirety and inserting in lieu thereof the following;

“(p) The Tax Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to administer the tax levied pursuant to the provisions of

this section. These rules must include a description of how the adjustments to income and the credit authorized by this section apply to direct or indirect owners of an electing pass-through entity based upon various ownership structures.”

On page 6, section 20, line 29, by striking “article” and inserting “code”; and

On page 6, section 20, line 34, by striking “article” and inserting “code”.

The bill was then ordered to third reading.

S. B. 244, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county; on second reading, coming up in regular order, was read a second time.

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

“CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-101. Authorization and responsibility; Bureau for Social Services.

(a) ~~The Department of Health and Human Resources is authorized to provide care, support and protective services for children who are handicapped by dependency, neglect, single parent status, mental or physical disability, or who for other reasons are in need of public service. The department is also authorized to accept children for care from their parent or parents, guardian,~~

~~eustodian or relatives and to accept the custody of children committed to its care by courts. The Department of Health and Human Resources or any county office of the department is also authorized and to accept temporary custody of children for care from any law-enforcement officer in an emergency situation. The Bureau for Social Services is continued within the department. The bureau is under the immediate supervision of a commissioner.~~

(b) ~~The Department of Health and Human Resources is responsible for the care of the infant child of an unmarried mother who has been committed to the custody of the department while the infant is placed in the same licensed child welfare agency as his or her mother. The department may provide care for those children in family homes meeting required standards, at board or otherwise, through a licensed child welfare agency, or in a state institution providing care for dependent or neglected children. If practical, when placing any child in the care of a family or a child welfare agency the department shall select a family holding the same religious belief as the parents or relatives of the child or a child welfare agency conducted under religious auspices of the same belief as the parents or relatives. The Bureau for Social Services is authorized to provide care, support, and protective services for children who are handicapped by dependency, neglect, single parent status, mental or physical disability, or who for other reasons are in need of public service. The bureau is also authorized to accept children for care from their parent or parents, guardian, custodian, or relatives, and to accept the custody of children committed to its care by courts. The bureau or any county office of the department is also authorized to accept temporary custody of children for care from any law-enforcement officer in an emergency situation.~~

(c) ~~The bureau is responsible for the care of the infant child of an unmarried mother who has been committed to the custody of the department while the infant is placed in the same licensed child welfare agency as his or her mother. The bureau provides care for those children in family homes meeting required standards, at board or otherwise, through a licensed child welfare agency, or in a state institution providing care for dependent or neglected~~

children. If practical, when placing any child in the care of a family or a child welfare agency, the bureau shall select a family holding the same religious belief as the parents or relatives of the child, or a child welfare agency conducted under religious auspices of the same belief as the parents or relatives.

§49-2-102. ~~Minimum staffing complement for child protective services~~ Staffing Allocation for Child Protective Services Workers.

~~[Repealed.]~~ Notwithstanding any other provision of this code to the contrary, effective July 1, 2024, the commissioner shall allocate and station child protective services workers by county based on population, referrals, and average caseload. The allocation may not decrease below the bureau's allocation of January 1, 2023. The county population shall be based on the United States Census. The bureau shall report the allocation to the Legislative Oversight Commission on Health and Human Resources Accountability by July 1 each year.

§49-2-809. Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately to the department of child protective services by a method established by the ~~department~~ Bureau for Social Services; *Provided*, That if the method for reporting is web-based, the ~~Department of Health and Human Resources~~ Bureau for Social Services shall maintain a system for addressing emergency situations that require immediate attention and shall be followed by a written report within 48 hours if so requested by the receiving agency. The ~~state department~~ Bureau for Social Services shall establish and maintain a 24-hour, seven-day-a-week telephone number to receive calls reporting suspected or known child abuse or neglect.

(b) The department shall have a redundancy for its system in the event of an outage to receive reports. This redundancy system shall be transparent, meaning that it shall allow for reporting in the same means as if the outage had not occurred and no time delay shall occur from when the outage occurs to when the redundancy

system begins to operate. This redundancy system shall be operational no later than July 1, 2023. If the department contends that it currently has a redundancy system, it shall describe the system, provide an operational date for the system, and explain why calls to centralized intake were unanswered to the Joint Committee on Government and Finance by July 1, 2023.

~~(b)~~ (c) A copy of any report of serious physical abuse, sexual abuse, or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney, or the coroner or medical examiner's office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

(d) The department shall annually submit a report in an electronic format, via the legislative webpage, on July 1 to the Joint Committee on Government and Finance, which shall contain: How many calls were made to centralized intake on a per county basis, how many calls were referred to centralized intake on a per county basis, how many calls were screened out centralized intake on a per county basis, and the time from referral to investigation on a per county basis.

ARTICLE 10. EXEMPTION FROM WEST VIRGINIA DIVISION OF PERSONNEL.

§49-10-101. Legislative findings.

The Legislature finds the State of West Virginia is experiencing a child welfare crisis. From 2016 to 2020, the child protective service vacancy rate has increased from 9.7% to 33%. This significant lack of staffing has caused a delay in response times to begin investigations. During the same time period, the average hours to start a child protective service investigation after referral went from 119.1 hours in 2016 to now averaging 428.1 hours in 2020. This significant failure to begin the investigation can and has cost lives. The Legislature finds that the Bureau for Social Services is having extreme difficulty recruiting and retaining child protective service workers, youth service workers, adult protective service workers, and other related workers,

including necessary casework support personnel and managers at the county level, who assist in the provision of services to vulnerable populations.

§49-10-101. Bureau for Social Service employees exempt from Division of Personnel.

(a) The Commissioner of the Bureau for Social Services shall develop a merit-based system policy for the bureau. The procedure shall include classification specifications, and may include compensation adjustments, retention incentives, and hiring approval by the commissioner. The commissioner shall have the full authority to evaluate applicants for employment or promotion or make classification determinations for positions within the merit-based system. The pay rates and employment requirements shall be put into effect on or before January 1, 2024. This merit-based system shall apply to new employees in the above referenced job classifications and for existing employees who elect, in writing to enter the merit-based system. The merit-based system is exempt from the Division of Personnel and all requirements of §29-6-1 *et seq.* of this code and any related rules. There is no requirement for uniformity regarding the pay scale for the same classification between regions of the state to account for market rates and demand for specific positions. The provisions of §6C-2-1 *et seq.* are not applicable.

(b) Funding for the pay rates and employment requirements shall be provided from the appropriation to the bureau.

(c) The commissioner may conduct periodic wage and compensation analysis of identified market rates for the above positions as determined by the commissioner.

(d) The commissioner shall report to Legislative Oversight Commission of Health and Human Resources accountability by January 1, 2024.

§49-10-103. Bureau for Social Service employees no requirement uniformity in pay scale.

The Legislature finds that the Bureau for Social Services is having extreme difficulty retaining child protective service

workers, youth service workers, adult protective service workers, and other related workers, including necessary casework support personnel and managers at the county level, who assist in the provision of services to vulnerable populations. To retain qualified employees in these crucial positions, there is no requirement for uniformity regarding the pay scale for the same classification between regions of the state to account for market rates and demand for specific positions. The provisions of §6C-2-1 *et seq.* of this code shall be applicable to the employees of the merit-based system as set forth in §49-10-102 of this code, however, there is no right to a grievance for any such regional pay disparity for the same job classification.

ARTICLE 11. SYSTEM REPORTING.

§49-11-101. Systemic reporting transparency; rulemaking.

The commissioner shall change the existing child welfare data dashboard by July 1, 2023, to report on system-wide issues, including, but not limited to, system-level performance indicators, intake hotline performance indicators, field investigation performance indicators, open case performance indicators, out-of-home placement performance indicators, and federally mandated performance indicators.”

Delegate Rowe moved to amend the amendment on page 2 of the amendment, section 102, line 3, following the period after the words “average caseload” by inserting the following:

“The commissioner shall designate a child protective service worker for each school to receive initial intake reports of complaints or concerns from school personnel.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 580**), and there were—yeas 19, nays 66, absent and not voting 15, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Fluharty, Garcia, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Longanacre, Marple, Petitto, E. Pritt, Rowe, Skaff, Statler, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Cooper, Dillon, Ellington, Foggin, Horst, Kump, Mallow, Martin, Nestor, Pinson, Pushkin, Ross, Steele and Worrell.

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

The Health and Human Resources amendment was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 294, Clarifying amount of deputy sheriff annual salary increase; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 345, Authorizing Department of Revenue to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on the Judiciary was reported by the Clerk, on page 2, section 2, subsection (a), line 3, by striking the period and inserting in lieu thereof the following:

“with the amendment set forth below:

On page 1, section 2, by striking out the words “Nothing in this rule shall be construed to create or imply a private cause of action for a violation of this rule or to subject a producer to civil liability under the best interest standard of care outline in Section 5 of this rule or under standards governing the conduct of a fiduciary or a fiduciary relationship.”;

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with amendment

pending, and the rule was suspended to permit the offering and consideration of amendments on that reading.

S. B. 465, Increasing limit on moneys placed in county's rainy day fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 478, Relating to Jumpstart Savings Program; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page two, section twelve-m, line twenty, following “§18-30A-3(a)(11)(D)”, by striking out the period and inserting the words “of this code”, followed by a period;

On page three, section twelve-m, line twenty-five, following the words “as defined in”, by striking out “§18-30A-11” and inserting in lieu thereof “§18-30A-3(a)(11)(D)”;

On page five, section twenty-five, line twenty-nine, following the words “income tax purposes”, by striking out the words “or a sole proprietorship” and the comma;

And,

On page fourteen, following line twenty five, by striking out the section heading for §18-30A-11 and inserting in lieu thereof the following: “**§18-30A-11. Distributions.**”.

The bill was then ordered to third reading.

S. B. 488, Aligning state and federal accreditation rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 559, Relating to spousal privilege; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3. COMPETENCY OF WITNESSES.

§57-3-3. Testimony of ~~husband and wife~~ spouses in criminal cases.

In criminal cases ~~husband and wife~~ spouses shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify ~~in~~ on 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, father, mother, sister or brother of either of them, or minor, as defined in §2-2-10, or any person deemed incompetent by mental disease, defect, or other disability. The failure of either ~~husband or wife~~ spouses to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by anyone.”

On motion of Delegate Capito, the amendment was amended, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3. COMPETENCY OF WITNESSES.

§57-3-3. Testimony of husband and wife in criminal cases.

(a) In criminal cases a husband and or wife validly married for purposes of the provisions of §48-1-101 et seq. of this code shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify ~~in~~ on behalf of ~~each other~~ their husband or wife, but neither shall be compelled, nor, without the consent of ~~the other~~ their husband or wife, allowed to be called as a witness against ~~the other~~ their husband or wife except ~~in the case of a prosecution for an offense committed by one against the~~

~~other, or against the child, father, mother, sister or brother of either of them;~~

(1) In the case of a prosecution for an offense committed by one against the other, or against the child, father, mother, sister or brother of either of them;

(2) In any case where either is charged with forgery of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged signature of the other;

(3) In any case in which the court determines that each conspired or acted jointly in the commission of the crime charged;

(4) In any proceeding relating to a violation of the laws pertaining to §61-8B-1 *et seq.* of this code, §61-8C-1 *et seq.* of this code, §61-8D-1 *et seq.* of this code, or any violation of §61-2-1 *et seq.* where the victim is an infant or minor as that term is defined in §2-2-10 of this code; or

(5) In the case of a prosecution for an offense in which the victim is incompetent due to a mental disease or defect or other disability.

(b) The failure of either a 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.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

S. B. 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with amendment

pending, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission; on second reading, coming up in regular order, was read a second time.

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

H. B. 3109, Supplementing and amending appropriations to the State Board of Education - State Department of Education; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3542, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 121, Creating Student Journalist Press Freedom Protection Act,

S. B. 240, Requiring state board of examination or registration proceedings to be open to public inspection,

Com. Sub. for S. B. 271, Modifying approval process requirements for First Responders Honor Board,

Com. Sub. for S. B. 298, Relating to non-federally declared emergencies and non-states of emergency,

Com. Sub. for S. B. 422, Requiring public schools to publish curriculum online at beginning of each new school year,

Com. Sub. for S. B. 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems,

Com. Sub. for S. B. 461, Relating to WV public employees grievance procedure,

Com. Sub. for S. B. 495, Providing correctional institutions and juvenile facilities video and audio records be confidential,

Com. Sub. for S. B. 527, Allowing family members of military personnel access to discharge records,

S. B. 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations,

S. B. 544, Increasing power purchase agreement cap,

Com. Sub. for S. B. 573, Relating to child support guidelines and Support Enforcement Commission,

Com. Sub. for S. B. 661, Clarifying preferential recall rights for employees sustaining compensable injury,

Com. Sub. for S. B. 665, Amending licensure requirements for massage therapist,

S. B. 733, Relating to wildlife licenses and stamps,

S. B. 734, Requiring adoption of cloud computing services by state agencies,

S. B. 735, Clarifying department responsible for administration of certain programs,

And,

S. B. 739, Relating to moratorium on carbon capture agreements.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2380, Relating to School Building Authority.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 2283, Relating to authorized expenditures of revenues from certain state funds for fire departments.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2759, Relating to updating the health care provider tax.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3012, To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 3299, Relating to Natural Resource Police Officer Retirement.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 3328, Authorizing the Hatfield-McCoy Regional Recreation Authority to contract to build and maintain trails on privately owned property.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3510, Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3529, Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

Com. Sub. for H. C. R. 2, U. S. Army Cpl. Billy F. Mann Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 4, U. S. Army MSG Jon D. Wayt Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 9, U. S. Army PFC Walter C. Horner Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 21, Michael Lee “Rube” Ruben Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 22, U.S. Army T/5 Doyle Bedell Taylor Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 24, U. S. Army PFC Herman H. Lucas Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 25, U. S. Marine Corps, PFC John Louis “Johnny” Brumbaugh, Jr. Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 26, U.S. Army SGT Samuel D. Roberts Sr. Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 34, William N. “Shug” Kisner Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 40, USMC Corporal Larry Allen “Crocky” Holstein, Jr. Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 47, U. S. Army SGT Walter Hedrick Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 49, U. S. Army 1SG Elmer C. Lofton Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 54, U.S. Army PFC Russell Richard Ferguson Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 58, U. S. Army SSG Steven “Todd” Shay Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 62, U.S. Army PFC Clayton Collins Memorial Bridge.

A message from the Senate, by

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

A message from the Senate, by

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

Com. Sub. for S. B. 205, Relating to registration plates.

A message from the Senate, by

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

Com. Sub. for S. B. 267, Updating law regarding prior authorizations.

A message from the Senate, by

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

S. B. 449, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools.

A message from the Senate, by

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

Com. Sub. for S. B. 450, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board.

A message from the Senate, by

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

Com. Sub. for S. B. 463, Increasing validity of CDL instruction permit.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

Com. Sub. for S. B. 476, Exempting managed care contracts from purchasing requirements.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect July 1, 2023, of

Com. Sub. for S. B. 475, Modifying examinations for disability pensions.

A message from the Senate, by

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

S. B. 605, Requiring state medical examiner to enter into contracts with procurement organization.

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

Committee Reports

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 52, Study the financial effects of raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal, public service district, county and state public works project,

H. C. R. 57, Requesting Department of Economic Development to create a plan of incentives to encourage small businesses in highly regulated states to relocate to WV,

H. C. R. 59, Requesting a study to establish a motorsport events welcome center and implement a program to promote motorsport events in West Virginia,

H. C. R. 60, Requesting the Joint Committee on Government and Finance study the economic and tourism impacts creating a cross state biking and hiking trail,

H. C. R. 65, Requesting a study of the effects of eliminating the mandatory inspection of motor vehicles,

H. C. R. 66, Requesting a study on the effects of conservation easements,

H. C. R. 67, Requesting a study of the effects of using blockchain technology on vital public and government data security,

H. C. R. 68, Requesting a study on the effects of site preparedness on economic development,

H. C. R. 69, Requesting a study on the use of larger crews and continuous working hours on smaller roadway projects,

Com. Sub. for S. C. R. 4, US Navy S1 Ira "Noon" Copley and Marie Copley Memorial Bridge,

S. C. R. 8, US Army PV 2 Harold Richard Plumley Memorial Bridge,

Com. Sub. for S. C. R. 10, US Army Air Corps PVT Albert J Sutphin Memorial Highway,

Com. Sub. for S. C. R. 13, Wyant Brothers WWII Veterans Memorial Road,

And,

Com. Sub. for S. C. R. 16, US Army 1SG James Arnold Browning Memorial Bridge,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 674, Providing statutory recognition and appointment of board members for WV First Foundation,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bill (S.B. 674) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

S. B. 147, Creating pilot program for recovery residences in Cabell County,

Com. Sub. for S. B. 200, Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting,

Com. Sub. for S. B. 232, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system,

Com. Sub. for S. B. 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements,

S. B. 608, Correcting list of items which are considered deadly weapons,

Com. Sub. for S. B. 633, Requiring prompt appearances for persons detained on capiases,

And,

Com. Sub. for S. B. 647, Relating to substantiation of abuse and neglect allegations,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (S. B. 147, Com. Sub. for S. B. 200, Com. Sub. for S. B. 232, Com. Sub. for S. B. 534, S. B. 608, Com. Sub. for S. B. 633 and Com. Sub. for S. B. 647) were taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bill (Com. Sub. for S. B. 617) was taken up for immediate consideration, read a first time, and ordered to second reading.

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 546, Adding and removing certain compounds from controlled substance list,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bill (Com. Sub. for S. B. 546) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 409, Authorizing Department of Commerce to promulgate legislative rules,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bill (Com. Sub. for S. B. 409) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students,

Com. Sub. for S. B. 220, Industrial Hemp Development Act,

Com. Sub. for S. B. 361, Authorizing miscellaneous boards and agencies to promulgate legislative rules,

And,

Com. Sub. for S. B. 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid,

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

At the respective requests of Delegate Householder, and by unanimous consent, the bills (Com. Sub. for S. B. 187, Com. Sub. for S. B. 220, Com. Sub. for S. B. 361 and Com. Sub. for S. B. 548) were taken up for immediate consideration, read a first time, and ordered to second reading.

Messages from the Executive

The following proclamation by His Excellency, the Governor, was laid before the House and read by the Clerk:

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston

A PROCLAMATION

By the Governor

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January two thousand twenty-three; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand twenty-three regular session of the Legislature is scheduled to conclude on the eleventh day of March, two thousand twenty-three; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the

Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this eighth day of March, two thousand twenty-three.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand twenty-three regular session of the Legislature for an additional period not to exceed one day, through and including the twelfth day of March, two thousand twenty-three; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, on this the eighth Day of March, in the Year of our Lord, Two Thousand Twenty-Three, and in the One Hundred Sixtieth Year of the State.

James Justice,
Governor.

By the Governor

Mac Warner
Secretary of State

Leaves of Absence

At the request of Delegate Householder, and by unanimous consent, leaves of absence for the day were granted Delegates Mallow and Nestor.

At 6:59 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, March 9, 2023.

Thursday, March 9, 2023

FIFTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 8, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that Com. Sub. for S. B. 293 and Com. Sub. for S. B. 593, on Second Reading, Special Calendar, had been transferred to the House Calendar.

**Messages from the Executive
and Other Communications**

The following communication was laid before the House of Delegates and reported by the Clerk:

STATE OF WEST VIRGINIA
Jim Justice
Governor of West Virginia

March 7, 2023

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

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

Dear President Blair and Speaker Hanshaw:

After submission of my recommended FY 2024 Executive Budget on January 11, 2023, there are areas that require adjustment.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2024 Budget Bill for the following sections:

TITLE II – APPROPRIATIONS

Section 1. Appropriations from general revenue.

Executive

Governor's Office – Civil Contingent Fund, Fund 0105, Fiscal Year 2024, Org 0100

(To add reappropriation language.)

- After “2012 Natural Disasters – Surplus (fund 0105, appropriation 13500),” add “Congressional Earmark Maintenance of Effort – Surplus (fund 0105, appropriation 22599),”.
- Remove the word “and” after “Natural Disasters – Surplus (fund 0105, appropriation 76400),”. Then insert “and Federal Funds/Grant Match – Surplus (fund 0105, appropriation 85700)” after “Local Economic Development Assistance (fund 0105, appropriation 81900)”.

Department of Administration

Division of General Services, Fund 0230, Fiscal Year 2024, Org 0211

(To add reappropriation language.)

- Strike and replace the reappropriation language with the following: “Any unexpended balances remaining in the appropriations for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) and Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.”

Public Defender Services, Fund 0226, Fiscal Year 2024, Org 0221

(To add reappropriation language.)

- Strike and replace the reappropriation language with the following: “Any unexpended balances remaining in the appropriations for Appointed Counsel Fees (fund 0226, appropriation 78800) and Appointed Counsel Fees – Surplus (fund 0226, appropriation 43500) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.”

Department of Commerce

Division of Natural Resources, Fund 0265, Fiscal Year 2024, Org 0310

(To add reappropriation language.)

- After “Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800),” add “Equine Enrichment – Surplus (fund 0265, appropriation 22899),”.
- After “Capital Outlay – Parks (fund 0265, appropriation 28800),” add “Upper Mud River Flood Control (fund 0265, appropriation 65400),”.

Department of Education

State Board of Education – State Department of Education, Fund 0313, Fiscal Year 2024, Org 0402

(To add reappropriation language, decrease Teacher Retirement Savings Realized appropriation per CPRB actuary, and insert a new item of appropriation.)

- Decrease “Teachers’ Retirement Savings Realized” (fund 0313, appropriation 09500) by \$16,104,000.
- Insert a new item of appropriation: “Grown Your Own West Virginia Pathway to Teaching Program” Appropriation XXXXX for \$5,000,000.
- After “National Teacher Certification (fund 0313, appropriation 16100),” insert “Hope Scholarship Program (fund 0313, appropriation 30401),”.
- After “21st Century Learners (fund 0313, appropriation 88600),” insert “Classroom Aide Program – Surplus (fund 0313, appropriation XXXXX),”.

State Board of Education – State Aid to Schools, Fund 0317, Fiscal Year 2024, Org 0402

(To adjust School Aid Formula based on the passage of SB 423 (\$2,300 pay raise), certified property valuations, and actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Strike the entirety of item 46 and replace it with the following:

46 - State Board of Education –

State Aid to Schools

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

Fund 0317 FY 2024 Org 0402

Other Current Expenses	02200	\$ 179,624,115
Advanced Placement.....	05300	635,238
Professional Educators.....	15100	940,631,329
Service Personnel.....	15200	327,141,159
Fixed Charges	15300	110,082,365
Transportation	15400	87,405,241
Improved Instructional Programs	15600	57,738,239
Professional Student Support		
Services.....	65500	64,943,783
21 st Century Strategic		
Technology Learning Growth.....	93600	37,971,242
Teacher and Leader Induction.....	93601	<u>17,006,361</u>
Basic Foundation Allowances.....		1,823,179,072
Less Local Share		(533,898,170)
Adjustments		<u>(1,679,011)</u>
Total Basic State Aid		1,287,601,891
Public Employees' Insurance		
Matching	01200	212,341,880
Teachers' Retirement System	01900	69,085,343
School Building Authority	45300	66,500,000
Retirement Systems – Unfunded		
Liability.....	77500	<u>285,469,999</u>
Total.....		\$ 1,920,999,113

The above appropriation for School Building Authority (fund 0317, appropriation 45300) shall be transferred to the School Construction Fund (fund 3952).

Department of Health and Human Resources

Division of Human Services, Fund 0403, Fiscal Year 2024, Org 0511

(To adjust appropriations per agency request)

- Decrease “CHIP Services” Appropriation 85602 by \$4,096,995.
- Increase “Medical Services” Appropriation 18900 by \$2,466,346.

Division of Health – Central Office, Fund 0407, Fiscal Year 2024, Org 0506

- Increase “Chief Medical Examiner (R)” Appropriation 04500 by \$1,630,649.

Consolidated Medical Services Fund, Fund 0525, Fiscal Year 2024, Org 0506

(To provide funds for contract nurses in Institutional Facilities and add transfer language.)

- Increase “Institutional Facilities Operations (R)” Appropriation 33500 by \$12,031,796.
- On page 49, after line 35 add “The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) shall be transferred to 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.”

Department of Homeland Security

Division of Corrections and Rehabilitation – Correctional Units, Fund 0450, Fiscal Year 2024, Org 0608

(To add reappropriation language.)

- After “Capital Improvements – Surplus (fund 0450, appropriation 66100),” insert “Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700),”.

West Virginia State Police, Fund 0453, Fiscal Year 2024, Org 0612

(To reduce pension contribution per CPRB actuary)

- Decrease “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$26,000.

Division of Administrative Services – Criminal Justice Fund, Fund 0546, Fiscal Year 2024, Org 0623

(To add reappropriation language.)

- After “Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200),” insert “Victims of Crime Act – Surplus (fund 0546, appropriation XXXXX),”.

Department of Transportation

Division of Public Transit, Fund 0510, Fiscal Year 2024, Org 0810

(To address funding for Potomac Highlands Airport Authority’s operating expenses.)

- Increase “Current Expenses (R)” Appropriation 13000 by \$200,000.

Insert a new budget item as follows:

“78a - Division of Multimodal Transportation Facilities, Fund 0580, Fiscal Year 2024, Org 0810”

(To include the new Division of Multimodal Transportation Facilities fund with new items of appropriation.)

78a – Division of Multimodal Transportation Facilities

(W.V. Code Chapter 17)

Fund 0580 FY 2023 Org 0810

Personal Services and

Employee Benefits (R)	00100	\$	700,000
Current Expenses (R)	13000		750,000
BRIM Premium.....	91300		7,500

Total..... \$ 1,457,500

Any unexpended balances remaining in the appropriations for Personal Services and

Employee Benefits – Surplus (fund 0580, appropriation 00100) and Current Expenses (fund 0580, appropriation 13000 at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Department of Veterans’ Assistance

Department of Veterans’ Affairs, Fund 0456, Fiscal Year 2024, Org 0613

(To replenish the special revenue fund used for contract nurses and add transfer language.)

- Insert a new item of appropriation: “Directed Transfer” Appropriation 70000 for \$1,500,000.
- After the reappropriation language, add “The above appropriation for Directed Transfer (fund 0456, appropriation 70000) shall be transferred to Veterans’ Facilities Support Fund (fund 6703).”

Sec. 2. Appropriations from state road fund.

Department of Transportation

Division of Highways, Fund 9017, Fiscal Year 2024, Org 0803

(To increase state road spending authority for Equipment.)

- Increase “Equipment Revolving” Appropriation 27600 by \$24,954,134.

Sec. 3. Appropriations from other funds.

Department of Administration

Department of Administration – Office of the Secretary – Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2024, Org 0201

(To align appropriation with amount transferred from fund 0313 appropriation 09500 for FY 2024.)

- Decrease “Current Expenses” Appropriation 13000 by \$16,104,000.

Department of Health and Human Resources

Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations, Fund 5156, Fiscal Year 2024, Org 0506

(To correct the fiscal year on directive language.)

- On page 114, line 7, change “fiscal year 2023” to “fiscal year 2024”.

Division of Human Services – James “Tiger” Morton Catastrophic Illness Fund, Fund 5454, Fiscal Year 2024, Org 0511

(To add Personal Services and Employee Benefits appropriation.)

- Insert a new item of appropriation: “Personal Services and Employee Benefits” Appropriation 00100 for \$136,984.

Department of Homeland Security

Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority, Fund 6675, Fiscal Year 2024, Org 0608

(To adjust spending authority to address deferred maintenance issues.)

- Decrease “Debt Service” Appropriation 04000 by \$7,100,000.
- Insert a new item of appropriation: “Unclassified” Appropriation 09900 for \$100,000.

- Insert a new item of appropriation: “Repairs and Alterations” Appropriation 06400 for \$5,000,000.
- Insert a new item of appropriation: “Equipment” Appropriation 07000 for \$2,000,000.

Sec. 6. Appropriations of federal funds.

Executive

Department of Agriculture, Fund 8736, Fiscal Year 2024, Org 1400

(To increase Federal spending authority for American Rescue Plan [ARPA] funds.)

- Increase “Federal Coronavirus Pandemic” Appropriation 89101 by \$753,762.

Attorney General – Medicaid Fraud Unit, Fund 8882, Fiscal Year 2024, Org 1500

(To increase spending authority to align amounts received for federal awards.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$87,520.

Department of Homeland Security

Division of Emergency Management, Fund 8727, Fiscal Year 2024, Org 0606

(To add Federal spending authority for Emergency Management Grant Awards.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$200,000.

West Virginia State Police, Fund 8741, Fiscal Year 2024, Org 0612

(To add Federal spending authority for Federal Opioid Settlement Award.)

- Increase “Current Expenses” Appropriation 13000 by \$125,000.
- Increase “Equipment” Appropriation 07000 by \$10,853,750.
- Increase “Buildings” Appropriation 25800 by \$990,000.
- Increase “Other Assets” Appropriation 69000 by \$921,250.

Sec. 9. Appropriations from general revenue fund surplus accrued.

Department of Economic Development

Department of Economic Development - Office of the Secretary, Fund 0256, Fiscal Year 2024, Org 0307

(To amend directive language and remove an extra word.)

- On line 3, remove the word “used”.

Department of Health and Human Resources

Division of Health – Central Office, Fund 0407, Fiscal Year 2024, Org 0506

(To correct an appropriation.)

- On page 188, line 2, strike and replace “State Aid for Local and Basic Public Health Services – Surplus, Appropriation 18499” with “Current Expenses – Surplus, Appropriation 13099”.
- Insert the following language under the appropriation “The above appropriation for Current Expenses –

Surplus (fund 0407, appropriation 13099) shall be used for the Hardy County Health Department.”

Department of Homeland Security

*Division of Corrections and Rehabilitation – Correctional Units,
Fund 0450, Fiscal Year 2024, Org 0608*

(To correct an error for the Org listed.)

- On page 187, strike and replace Org “0308” with “0608.”

Department of Administration

(To provide for startup costs associated with a state-run records management system.)

Insert a new budget item as follows:

409a - Office of Technology

(W.V. Code Chapter 5A)

Fund 0204 FY 2024 Org 0231

Directed Transfer - Surplus.....	70099	\$	500,000

The above appropriation for Directed Transfer – Surplus (fund 0204, appropriation 70099) shall be transferred to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund (fund 2531).

Department of Economic Development

(To provide funding to Water Development Authority for critical needs.)

Insert a new budget item as follows:

409b- Department of Economic Development –

Office of the Secretary

*(WV Code Chapter 5B)*Fund 0256 FY 2024 Org 0307

Directed Transfer - Surplus..... 70099 \$ 15,000,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Water Development Authority (fund 3382).

Thank you for your prompt attention to this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

Jim Justice
Governor

Communication from His Excellency, the Governor, advised that on March 8, 2023, he approved **Com. Sub. for H. B. 2062** and **S. B. 591**.

The Clerk announced that H. B. 2309, H. B. 2597, Com. Sub. for H. B. 2638, Com. Sub. for H. B. 2762, H. B. 2839, H. B. 3215, Com. Sub. for H. B. 3364 and H. B. 3391 were presented to the Governor on March 9, 2023

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2002, Relating to providing support for families.

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

On page 2, section 7, line 6, by striking out the word “federal” and inserting in lieu thereof the words “federally approved”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 581**), and there were—yeas 84, nays 7, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Hansen, Hornbuckle, Pushkin, Walker, Williams and Young.

Absent and Not Voting: Foster, Griffith, Hanna, Mallow, Nestor, Rohrbach, Ross, Steele and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2002) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2221, Relating to bankruptcy.

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

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

“ARTICLE 10. FEDERAL TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.

§38-10-4. Exemptions of property in bankruptcy proceedings.

Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor's interest, not to exceed \$35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least \$1 million for each occurrence, the debtor physician's interest that is exempt under this subdivision may exceed \$35,000 in value but may not exceed \$250,000 per household.

(b) The debtor's interest, not to exceed \$7,500 in value, in one motor vehicle.

(c) The debtor's interest, not to exceed ~~\$400~~ 800 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor: *Provided*, That the total amount of personal property exempted under this subdivision may not exceed ~~\$8,000~~ \$16,000.

(d) The debtor's interest, not to exceed ~~\$1,000~~ \$2,000 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value \$800 plus any unused amount of the exemption provided under subdivision (a) of this subsection in any property.

(f) The debtor's interest, not to exceed ~~\$1,500~~ \$3,000 in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(g) Any ~~unmeasured~~ unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

~~(h) The debtor's interest, not to exceed in value \$8,000 less any amount of property of the estate transferred in the manner specified in 11 U.S.C. § 542(d), in any accrued dividend or interest under, or loan value of, any unmeasured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent~~

(+) (h) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(+) (i) The debtor's right to receive:

(1) A Social Security benefit, unemployment compensation, or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit;

(4) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(5) A payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, and funds on deposit in an individual retirement account, including a simplified employee pension regardless of the amount of funds, unless:

(A) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(B) The payment is on account of age or length of service;

(C) The plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986; and

(D) With respect to an individual retirement account, including a simplified employee pension, the amount is subject to the excise tax on excess contributions under Section 4973 and/or Section 4979 of the Internal Revenue Code of 1986, or any successor provisions, regardless of whether the tax is paid.

~~(k)~~ (j) The debtor's right to receive or property that is traceable to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

~~(3) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor~~

All life insurance proceeds paid to the debtor as a beneficiary, any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, or any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value.

(4) A payment, not to exceed ~~\$15,000~~ \$50,000 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with §18-30-1 *et seq.* of this code on behalf of any beneficiary.

(4) (k) Solely for the purpose of applying the provisions of 11 U.S.C. § 522(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property of the debtor's bankruptcy estate the property specified under 11 U.S.C. § 522(d).

~~(m) (l)~~ The amendments made to this section during the ~~2021~~ 2023 regular session of the Legislature, ~~as amended during the first extraordinary session of the Legislature, 2021~~, shall apply to bankruptcies filed on or after the effective date of those amendments.”

And,

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

Com. Sub. for H. B. 2221 – “A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, relating to bankruptcy; correcting an erroneous term; updating the monetary amounts of certain exemptions to account for inflation, including those amounts related to household goods, jewelry, tools of the trade, and payments made on account of a personal bodily injury; excluding life insurance proceeds paid to the debtor as a beneficiary; excluding any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary; and, excluding any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value, from inclusion in the bankruptcy estate used to satisfy creditors in a bankruptcy proceeding.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 582**), and there were—yeas 86, nays 8, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Butler, Coop-Gonzalez, Fast, Foggin, Hite, Hornby and Street.

Absent and Not Voting: Griffith, Hanna, Mallow, Nestor, Ross and Storch.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2221) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2509, Creating the Uniform Premarital Agreement Act.

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

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

“ARTICLE 1A. UNIFORM PREMARITAL AGREEMENT ACT.

§48-1A-101. Definitions.

As used in this article:

(a) ‘Premarital agreement’ means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage and includes the definition of the term prenuptial agreement as set forth in §48-1-203 of this code.

(b) ‘Property’ means an interest, present or future, legal or equitable, vested or contingent, in real or personal property including income and earnings.

§48-1A-201. Formalities.

A premarital agreement must be in writing and signed by both parties and contain an acknowledgement that both parties have had an opportunity to consult with separate legal counsel. It is enforceable without consideration.

§48-1A-301. Content.

(a) Parties to a premarital agreement may contract with respect to:

(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of or otherwise manage and control property;

(3) The disposition of property upon separation, marital dissolution, death or the occurrence or nonoccurrence of any other event;

(4) The modification or elimination of spousal support;

(5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) The ownership rights in and disposition of the death benefit from a life insurance policy;

(7) The choice of law governing the construction of the agreement; and

(8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by premarital agreement.

§48-1A-401. Effect of marriage.

A premarital agreement becomes effective upon marriage.

§48-1A-501. Amendment; revocation.

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement, or the revocation, is enforceable without consideration.

§48-1A-601. Enforcement.

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) That party did not execute the agreement voluntarily;

(2) Either party was under the age of 18 when the marriage occurred; or

(3) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(A) Was not provided adequate financial disclosures of the other party as set forth in subsection (b) of this section;

(B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(C) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) A party has adequate financial disclosure under this section if the party:

(1) Receives a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party;

(2) Expressly waives, in a separate signed record, the right to financial disclosure beyond the disclosure provided; or

(3) Has adequate knowledge, or a reasonable basis for having adequate knowledge, of the information described in subdivision (1) of this section.

(c) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, the family court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(d) A court may refuse to enforce a term of a premarital agreement if, in the context of the agreement taken as a whole:

(1) The term was unconscionable at the time of signing; or

(2) Enforcement of the term would result in substantial hardship for a party because of a material change in circumstances arising after the agreement was signed.

(e) The issues of unconscionability of a premarital agreement or substantial hardship shall be decided by the family court as a matter of law.

§48-1A-701. Unenforceable terms.

(a) A term in a premarital agreement or marital agreement is not enforceable to the extent that it:

(1) Adversely affects a child's right to support;

(2) Limits or restricts a remedy available to a victim of domestic violence under law of this state;

(3) Purports to modify the grounds for a court-decreed separation or marital dissolution available under the law of this state; or

(4) penalizes a party for initiating a legal proceeding leading to a court-decreed separation or marital dissolution.

(b) A term in a premarital agreement or marital agreement which defines the rights or duties of the parties regarding custodial responsibility is not binding on the court.

§48-1A-801. Enforcement; void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

§48-1A-901. Limitation of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§48-1A-1001. Application; construction; and effective date.

(a) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(b) This article applies to premarital agreements signed on or after July 1, 2023.

§48-1A-1101. Short title.

This article may be cited as the "Uniform Premarital Agreement Act."

And,

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

Com. Sub. for H. B. 2509 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §48-1A-101, §48-1A-201, §48-1A-301, §48-1A-401,

§48-1A-501, §48-1A-601, §48-1A-701, §48-1A-801, §48-1A-901 §48-1A-1001, and §48-1A-1101 all relating to the Uniform Premarital Agreement Act; defining terms; providing requirements and content of agreement; providing for the effect of marriage; describing amendment, revocation and enforcement of such agreements; describing unenforceable terms; providing for tolling of statute of limitations; providing application and construction of article; providing effective date; and setting forth short title.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 583**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon and Keaton.

Absent and Not Voting: Griffith, Mallow, Nestor, Ross and Storch.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2509) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2515, Require agencies to develop and maintain an inventory of available services for single parents wanting to obtain degrees, secure training or reenter the workforce.

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

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

“CHAPTER 9. HUMAN SERVICES.

ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.

§9-3-1. Application for and granting of federal-state or federal assistance.

(a) Any person domiciled in this state, who shall make, or have made in his or her behalf, an application therefor and who is otherwise in all respects qualified to receive the same, shall be granted federal-state assistance or federal assistance in such form and amount, to such extent, and for such period, as authorized by applicable federal and state laws, rules and regulations and as determined by the department in accordance with such laws, rules and regulations and within limits of available funds.

(b) In conjunction with the Higher Education Policy Commission and Workforce West Virginia, the Bureau for Family Assistance must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on the Bureau for Family Assistance’s website and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail.

§9-3-2. Application for and granting of state assistance.

(a) Any indigent person domiciled in this state, who shall make, or have made in his or her behalf, an application therefor and who is otherwise in all respects qualified to receive the same, shall be granted state assistance in such form and amount, to such extent, and for such period, as authorized by applicable state laws, rules and regulations of the department and as determined by the department in accordance with such laws, rules and regulations and within limits of available funds.

(b) In conjunction with the Higher Education Policy Commission and Workforce West Virginia, the Bureau for Family Assistance must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on the Bureau for Family Assistance's website and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-4. Powers and duties of Higher Education Policy Commission.

(a) The primary responsibility of the commission is to provide shared services in a cost-effective manner upon request to the state colleges and universities, the West Virginia Council for Community and Technical College Education, and the community and technical colleges; undertake certain statewide and regional initiatives as specifically designated in this chapter, including those related to the administration of grants and scholarships and including those in conjunction with the council; to review, confirm, or approve certain actions undertaken by governing boards, as delineated in this chapter; and assist in the development of policy that will achieve the goals, objectives and priorities found in §18B-1-1a and §18B-1D-1 of this code. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards. To that end, the commission has the following powers and duties relating to the governing boards under its jurisdiction:

(1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this code to address major challenges facing the state, including, but not limited to, the goals, objectives, and priorities established in this chapter;

(2) In conjunction with the council, propose emergency and legislative rules in accordance with §29A-3A-1 and §18B-1-6 of this code to establish a performance-based funding formula model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in developing their annual budget requests to ensure the fair and equitable distribution and use of public funds among the state's institutions of higher education, including the statutorily and administratively exempted schools. This funding formula model shall advance the goals of the state's postsecondary education system by emphasizing outcomes focused on student success and institutional mission achievement. The formula shall include a range of variables that shall be weighted in a manner that corresponds to each institution's mission and provides incentives for productivity improvements consistent with the goal of strengthening the state's economy and workforce by developing the most competitive and capable graduates in the nation. The rule shall, at a minimum:

(A) Establish a set of objective performance metrics that reflect and support the state's higher education goals and priorities and the methodology by which those metrics shall be used in the allocation of state funds;

(B) Ensure that a portion of each institution's base appropriation is allocated based on outcomes achieved over a defined period of time;

(C) Incentivize postsecondary program offerings that align with the state's higher education and workforce development priorities; and

(D) Establish safeguards to ensure stability of the funding formula model including, but not limited to, providing for periodic reviews of and revision to the performance metrics and funding methodology in addition to accounting for inflation;

(3) In collaboration with the council and the governing boards:

(A) ~~Building~~ Build public consensus around and ~~sustaining~~ sustain attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature, the Governor, the governing boards, and the State Board of Education and local school districts to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) ~~Assisting~~ Assist governing boards in carrying out their duty effectively to govern the individual institutions of higher education;

(4) Serve as a point of contact to state policymakers:

(A) The Governor for the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(5) Upon request, provide shared services to a state institution of higher education;

(6) Administer scholarship and grant programs as provided for in this code;

(7) Establish and implement the benchmarks and performance indicators for state colleges and universities necessary to measure institutional progress in achieving state policy priorities and institutional missions pursuant to §18B-1D-7 of this code;

(8) Establish a formal process for recommending capital investment needs and for determining priorities for state colleges and universities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process pursuant to §18B-19-1 *et seq.* of this code;

(9) Except the statutorily and administratively exempted schools, develop standards and evaluate governing board requests for capital project financing in accordance with §18B-19-1 *et seq.* of this code;

(10) Except the statutorily and administratively exempted schools, ensure that governing boards manage capital projects and facilities needs effectively, including review and approval of capital projects, in accordance with §18B-19-1 *et seq.* of this code;

(11) Acquire legal services as considered necessary, including representation of the commission, the governing boards, employees, and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(12) Employ a chancellor, and any interim chancellor employed shall meet all criteria required of the chancellor, pursuant to §18B-1B-5 of this code;

(13) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this code;

(14) Provide suitable offices in Kanawha County for the chancellor, vice chancellors, and other staff;

(15) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, except the statutorily exempted schools, as proposed by the governing boards. The governing boards, except the governing boards of the statutorily exempted schools, must obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package: *Provided*, That the commission shall receive notice, but need not approve or confirm, an increase in the compensation of an

institutional president that is exactly in the ratio of compensation increases allocated to all institutional employees and approved by the governing board to expressly include the president;

(16) Assist and facilitate the work of the institutions to implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

(17) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the state superintendent of schools;

(18) Jointly with the council and in conjunction with the West Virginia Network, support systemwide technology needs through leveraged consortium purchasing, software, database and networking support, and other services including, but not limited to, the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, and promoting access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, providing services to business and industry, and increasing the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission, and governing boards are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

(19) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to ensure that, within sound academic policy, a student may transfer and apply toward the requirements of any postsecondary credential the maximum number of credits earned at any regionally accredited in-state or out-of-state institution of higher education in a manner that minimizes the need to repeat courses or incur additional costs. This requirement applies to transfer processes for all levels of postsecondary programs delivered at community and technical colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

(20) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to develop a program through which a student who has gained knowledge and skills through employment, participation in education, and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

(21) Seek out and attend regional, national, and international meetings and forums on education and workforce development-related topics as, in the commission's discretion, are critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals, objectives, and priorities pursuant to §18B-1-1a and §18B-1D-1 *et seq.* of this code;

(22) Promulgate and implement a rule for governing boards and institutions to follow when considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule shall provide for appropriate deference to the value judgments of governing boards and may not apply to the statutorily or administratively exempted schools;

(23) Submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the governing boards under its jurisdiction including the statutorily and administratively exempted schools. The commission shall submit as part of its appropriation request the separate recommended appropriation request it received from the council, both for the council and for the governing boards under the council's jurisdiction. The commission annually shall submit the proposed allocations based on the funding formula model required by subdivision (a)(2) of this section;

(24) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to governing boards for qualifying noncapital expenditures incurred in providing services to students with physical, learning, or severe sensory disabilities;

(25) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary or expedient to fulfill the purposes of this chapter and Chapter 18C of this code;

(26) Determine when a joint rule among the governing boards under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards under its jurisdiction, promulgate the joint rule;

(27) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(28) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee policy for all governing boards under the jurisdiction of the commission, except the statutorily and administratively exempted schools. The rule shall include, but is not limited to, the following:

(A) Differences among institutional missions;

(B) Strategies for promoting student access;

(C) Consideration of charges to out-of-state students; and

(D) ~~Such~~ Any other policies as the commission and council consider appropriate;

(29) Notwithstanding any other provision of this code to the contrary sell, lease, convey, or otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-1 *et seq.* of this code;

(30) ~~Policy~~ Provide policy analysis and research focused on issues affecting institutions of higher education generally or a geographical region thereof;

(31) ~~Development and approval of~~ Develop and approve institutional mission definitions except for the statutorily and administratively exempted schools: *Provided*, That the commission may use funds appropriated by the Legislature for incentive funds to influence institutional behavior in ways that are consistent with public priorities, including the statutorily and administratively exempted schools;

(32) ~~Academic program review and approval~~ Review and approve academic programs for governing boards under its jurisdiction, except the statutorily and administratively exempted schools. The review and approval includes use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes.

(A) The commission's authority to review and approve academic programs for the statutorily and administratively exempted schools is limited to programs that are proposed to be offered at a new location not presently served by that institution: *Provided*, That West Virginia University and the West Virginia University Institute of Technology are subject to the commission's authority as provided in §18B-1C-2 of this code.

(B) In reviewing and approving academic programs, the commission shall focus on the following policy concerns:

(i) New programs may not be implemented which change the institutional mission, unless the institution also receives approval for expanding the institutional mission;

(ii) New programs which require significant additional expense investments for implementation may not be implemented unless the institution demonstrates that:

(I) The expenses shall be addressed by effective reallocations of existing institutional resources; or

(II) The expenses can be legitimately spread out over future years and shall be covered by reasonably anticipated additional net revenues from new enrollments;

(iii) A new undergraduate program which is significantly similar to an existing program already in the geographic service area may not be implemented unless the institution requesting the new program demonstrates a compelling need in the service area that is not being met by the existing program: *Provided*, That the academic programs of the statutorily and administratively exempted schools are not to be taken into consideration except as it relates to academic programs offered at West Virginia University in Beckley and West Virginia University Institute of Technology in Beckley.

(C) The commission shall approve or disapprove proposed academic degree programs in those instances where approval is required as soon as practicable. The commission shall maintain by rule a format model by which a new program approval shall be requested by an institution. When a request for approval of a new program is submitted to the commission, the chancellor shall provide notice within two weeks as to whether the submission meets the required format, and if it does not the chancellor shall identify each specific deficiency and return the request to the institution. The institution may refile the request for approval with the commission to address any identified deficiencies. Within 30

days after the chancellor's confirmation that the request meets the required format, the commission shall either approve or disapprove the request for the new program. The commission may not withhold approval unreasonably.

(33) ~~Distribution of~~ Distribute funds appropriated to the commission, including incentive and performance-based funds;

(34) ~~Administration of~~ Administer state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of rules necessary to administer those programs;

(35) ~~Serving~~ Serve as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(36) ~~Developing and distributing~~ Develop and distribute information, assessment, accountability and personnel systems for state colleges and universities, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(37) Jointly with the council, ~~promulgating and implementing~~ promulgate and implement rules for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state. The council has authority and responsibility for approval of all post-secondary courses or programs providing community and technical college education as defined in §18B-1-2 of this code;

(38) ~~Developing, facilitating, and overseeing~~ Develop, facilitate, and oversee statewide and regional projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funds from any source;

(39) (A) For all governing boards under its jurisdiction, except for the statutorily exempted schools, ~~the commission shall~~ review

institutional operating budgets, review and approve capital budgets, and distribute incentive and performance-based funds.

(B) For the governing boards of the statutorily exempted schools, the commission shall distribute incentive and performance-based funds and may review and comment upon the institutional operating budgets and capital budgets. The commission's comments, if any, shall be made part of the governing board's minute record and shall be filed with the Legislative Oversight Commission on Education Accountability;

(40) ~~May provide~~ Provide information, research, and recommendations to state colleges and universities relating to programs and vocations with employment rates greater than 90 percent within six months post-graduation; and

(41) ~~May provide~~ Provide information, research, and recommendations to state colleges and universities on coordinating with the West Virginia State Board of Education about complimentary programs.

(b) In addition to the powers and duties provided in this section and any other powers and duties assigned to it by law, the commission has other powers and duties necessary or expedient to accomplish the purposes of this chapter and Chapter 18C of this code: *Provided*, That the provisions of this subsection ~~may do not be construed to~~ shift management authority from the governing boards to the commission.

(c) The commission may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years, if the commission determines that either of the following conditions exist:

(1) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the governing board according to state law; or

(2) Other circumstances which, in the view of the commission, severely limit the capacity of the governing board to exercise its powers or carry out its duties and responsibilities.

The commission may not withdraw specific powers for a period exceeding two years. During the withdrawal period, the commission shall take all steps necessary to reestablish sound, stable and responsible institutional governance.

(d) On or after July 1, 2024, nothing in this section authorizes the commission to restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this code.

(e) In conjunction with Workforce West Virginia and the Bureau for Family Assistance, the Higher Education Policy Commission must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on the Higher Education Policy Commission's website, and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 10. UNEMPLOYMENT COMPENSATION.

§21A-10-24. List of services and support available to individuals who are qualified to receive federal, federal-state, or state assistance.

(a) In conjunction with the Higher Education Policy Commission and the Bureau for Family Assistance, Workforce West Virginia must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on Workforce West

Virginia's website, and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail."

And,

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

Com. Sub. for H. B. 2515 – “A Bill to amend and reenact §9-3-1 and §9-3-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1B-4; and to amend said code by adding thereto a new section, designated §21A-10-24, all relating to requiring certain agencies to work together to create an inventory of occupational and educational resources for certain persons qualified to receive assistance and to maintain and distribute that document; requiring that the Bureau for Family Assistance, the Higher Education Policy Commission, and Workforce West Virginia develop and maintain an inventory of available services and supports for individuals qualified to receive federal, federal-state, or state assistance and who wish to obtain a degree, secure workforce training, or reenter the workforce; requiring the Bureau for Family Assistance, the Higher Education Policy Commission, and Workforce West Virginia to maintain the document on their websites and to distribute the document via first-class mail upon request; and eliminating authority of Higher Education Policy Commission to restrict or regulate the carrying of concealed pistols or revolvers in certain circumstances.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 584**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Mallow, Nestor and Ross.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2515) passed.

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

A message from the Senate, by

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

H. B. 3146, Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act.

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

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

“ARTICLE 9C. UNIFORM PUBLIC MEETINGS DURING EMERGENCIES ACT.

§6-9C-1. Short title.

This article may be cited as the Public Meetings During Emergencies Act.

§6-9C-2. Definitions.

In this article:

‘Electronic’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

‘Emergency’ means an event or condition that is an emergency, disaster, or public health emergency as addressed in §15-5-2 and §15-5-6 of this code.

‘Emergency declaration’ means a declaration of emergency issued by a person or agency authorized to do so under §15-5-6 of this code and that is in effect.

‘Meeting’ has the same definition as in §6-9A-2 of this code.

‘Person’ has the same definition as in §6-9A-2 of this code. The term does not include a public corporation, government or governmental subdivision, agency, or instrumentality.

‘Public agency’ has the same definition as in §6-9A-2 of this code, however, for purposes of this article, it does not include the Legislature.

‘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.

‘Virtual meeting’ or ‘virtually’ means a meeting of a public agency or any part thereof, at which some or all of the members of the public agency participate wholly or partly by electronic means.

§6-9C-3. Virtual meetings.

(a) A public agency may meet virtually during an emergency that is the subject of an emergency declaration if otherwise permitted by law, or all or part of the jurisdiction of the public agency is subject to the emergency declaration; and the person authorized by law or by rule of the public agency to act for the public agency determines that due to the emergency it would not be practical or prudent for the public agency to meet physically or if the emergency declaration prohibits physical meetings.

(b) If a virtual meeting of a public agency authorized by §6-9C-3(a) of this code complies with the requirements of §6-9C-4, §6-9C-5, and §6-9C-6 of this code, then any action taken at a virtual meeting has the same legal force and effect as an action taken at a physical meeting of the public agency. All other laws of the state that apply to a physical meeting of a public agency shall, to the extent practicable and not inconsistent with a virtual meeting, apply to a virtual meeting of the public agency.

§6-9C-4. Authorization for virtual meeting.

(a) A public agency may conduct a virtual meeting while an emergency declaration is in effect that applies to all or part of the jurisdiction of the public agency if:

(1) The emergency declaration prohibits, limits, or has the effect of prohibiting or limiting an in-person meeting of the public agency; or

(2) The presiding officer of the public agency or other individual authorized to act for the public agency determines it is not practical or prudent for the public agency to conduct an in-person meeting because of the emergency; and

(A) Communicates to the members of the public agency that the meeting shall be a virtual meeting; and

(B) Takes reasonable steps to inform members of the public that the meeting shall be a virtual meeting.

§6-9C-5. Conduct of virtual meeting.

(a) A public agency shall, to the extent practicable, select a means to conduct a virtual meeting that is compatible with assistive technology commonly used by individuals with disabilities and that facilitates the accommodation needs of individuals with disabilities to access the meeting.

(b) Except as provided in §6-9C-5(c) or §6-9C-5(d) of this code, the means used to conduct a virtual meeting shall permit each member of the public agency who attends the meeting to see and hear during the meeting and to be seen and heard by, the other members of the public agency who attend the meeting.

(c) If a member of a public agency is unable to obtain visual access to the virtual meeting but is able to obtain audio access that permits the member, during the meeting, to hear and be heard by the other members of the public agency who attend the meeting, the member may attend by audio access.

(d) If a public agency lacks the capacity to provide contemporaneous visual access to a virtual meeting for members of the public agency, the public agency may conduct the meeting by audio-only access that permits each member of the public agency who attends the meeting, to hear and be heard during the

meeting by the other members of the public agency who attend the meeting.

(e) A member of a public agency who attends a virtual meeting is considered present for all

purposes, including for determination of a quorum and voting, if during the meeting, the member may:

(1) For a meeting conducted in compliance with §6-9C-5(b) of this code, see and hear and be seen and heard by the other members of the public agency who attend; or

(2) For a meeting conducted in compliance with §6-9C-5(c) or (d) of this code, may hear and be heard by the other members of the public agency who attend.

(f) A member of a public agency who attends a virtual meeting through electronic means that provide audio-only access to the meeting shall state the member's name each time the member speaks. Failure by a member to state the member's name does not invalidate an action taken at the virtual meeting.

(g) A vote taken at a virtual meeting shall be by a process that identifies how each member of the public agency votes.

(h) The minutes of a virtual meeting shall include any vote taken, that the meeting was conducted by electronic means, the technology used, and which members of the public agency attended by electronic means.

§6-9C-6. Public observation.

(a) If the open meetings law requires that the public be able to observe all or part of a meeting of a public agency in real time:

(1) The public agency shall permit the public to observe a virtual meeting or the part of the virtual meeting that would be required to be open to the public if it were part of an in-person meeting; and

(2) The public agency shall provide the technological means to allow the members of the public who observe the virtual meeting to see and hear or, if the public agency conducts the meeting by audio-only access under §6-9C-5(d) of this code, to hear any members of the public authorized by the public agency to speak in the meeting.

(b) A document, exhibit, or other record presented to a public agency at a virtual meeting that, under the open meetings law, would have been available to the public at an in-person meeting, including members of the public observing or participating in a virtual meeting under §6-9C-7 of this code, shall be made available to the public at the same time as the virtual meeting to the extent practicable.

§6-9C-7. Public participation.

(a) If a law of this state or a political subdivision of the state or a rule, practice, or procedure adopted by the public agency requires that members of the public be permitted to participate in a meeting of the public agency, the public agency to the extent practicable shall permit members of the public to participate in a virtual meeting, subject to the conditions that apply at an in-person meeting of the public agency.

(b) If members of the public are permitted to speak at a virtual meeting, the technology used to conduct the meeting shall permit the members of the public agency and members of the public attending the meeting to hear the members of the public who speak at the meeting.

(c) If a public agency considers at a virtual meeting a matter affecting the right or interest of a person entitled by other law of the state or a political subdivision of this state or by rule of the public agency to participate, present evidence, or examine or cross-examine witnesses at an in-person meeting, the public agency shall permit the person to use the same technology that the public agency uses to conduct the virtual meeting, or provide equivalent access, to attend the meeting and present evidence, or examine or cross-examine witnesses in the meeting.

(d) If a person to which §6-9C-7(c) of this code applies objects that the virtual meeting does not allow the person to effectively protect the right or interest referred to in §6-9C-7(c) of this code, the public agency shall consider the objection and may proceed with the matter at a virtual meeting if the agency determines that the virtual meeting will allow the person to effectively protect the right or interest. The determination and the reason for the determination shall be stated in a record.

§6-9C-8. Notice.

(a) In addition to any other requirement concerning notice, a public agency, for a meeting of the public agency, shall give notice of a virtual meeting and shall specify that the meeting will be a virtual meeting and the technology that will be used for the virtual meeting.

(b) Notice of a virtual meeting shall specify how:

(1) Members of the public may observe the meeting in real time pursuant to §6-9C-6 of this code;

(2) Members of the public permitted to participate, present evidence, or examine or cross-examine witnesses at the meeting pursuant to §6-9C-7 of this code may do so;

(3) A member of the public may alert the public agency of a technical or quality problems that prevents the member from accessing the meeting; and

(4) A member of the public with a disability may request a reasonable accommodation to access the meeting.

§6-9C-9. Procedural rules.

A public agency may adopt rules for conducting a virtual meeting under this article, comparable to rules for conducting an in-person meeting of the public agency. The rules may include:

(1) The means by which the public agency will inform members of the public that a virtual meeting will be held;

(2) The effect of a technical or quality problems that interferes with meeting or access to a meeting by a member of the public agency or the public;

(3) The means by which a record considered at a meeting is made available to the public agency and, if required by other law, the public;

(4) The means for access to a meeting by an individual with a disability; and

(5) The process by which a person may object under §6-9C-7 of this code to the conduct of a meeting on the ground that the procedure denies the person due process of law.

§6-9C-10. Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. § 7003(b)."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 585**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Street.

Absent and Not Voting: Griffith, Mallow, Nestor and Ross.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3146) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3233, Relating generally to uniform and equipment allowances for the National Guard.

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

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

“ARTICLE 1B. NATIONAL GUARD.

§15-1B-11. Uniforms, arms, equipment and supplies.

(a) The uniforms, arms, equipment, and supplies necessary for performance of duties shall be those prescribed by applicable federal laws and regulations. Officers shall provide themselves with uniforms and equipment prescribed, and there shall be annually allowed, to aid them in procuring and maintaining the same in condition for service, the sum of \$100 each or a higher sum not to exceed \$750 as determined at the discretion of the Adjutant General. Such sum shall be paid during the last month of each fiscal year for such year. In the event of service for less than the full fiscal year one-twelfth of such sum shall be allowed for each month of service during such year.

(b) Any member of the National Guard requiring a maternity or other specialty uniform, may request a sum or reimbursement to offset any expenses incurred in procuring such uniform, not to exceed the amount provided in subsection (a) of this section once in a 36-month period. Sums or reimbursements made pursuant to this subsection are made at the discretion of the Adjutant General. Any approved sum or reimbursement shall be paid during the last month of the fiscal year in which the request was approved.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 586**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Mallow, Nestor and Ross.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3233) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3261, Relating to Social Workers Qualifications.

Delegate Kelly moved that the House concur in the following amendment of the bill by the Senate, with further amendment.

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

“CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 30. SOCIAL WORKERS.

§30-30-16. PROVISIONAL LICENSE TO PRACTICE AS A SOCIAL WORKER.

(a) To be eligible for a provisional license to practice as a social worker, the applicant must:

- (1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Have a baccalaureate degree in a related field, as provided by legislative rule;

(4) Have obtained regular supervised employment, or the reasonable promise of regular supervised employment, contingent upon receiving a provisional license, in a critical social work workforce shortage position, area, or setting requiring a social work license: *Provided*, That such employment shall not be as an independent practitioner, contracted employee, sole proprietor, consultant, or other nonregular employment;

(5) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license, which conviction remains unreversed;

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(9) Meet any other requirements established by the board.

(b) The board shall promulgate emergency rules, in accordance with §29A-3-15 of this code, to implement the provisions of subsection (a) of this section.

(c) A provisionally licensed social worker may become a licensed social worker by completing the following:

(1) Be continuously employed for four years as a social worker and supervised: *Provided*, That should an individual lose his or her employment due to a reduction in force, or be unable to work due

to medical reasons, the individual may request that the Board allow for a reasonable interruption in continuous employment and provide additional time for the individual to complete the requirements of the provisional license. The board shall promulgate by legislative rule the supervision requirements;

(2) Complete 12 credit hours of core social work study from a program accredited by the council on social work education, as defined by legislative rule, within the four-year provisional license period;

(3) Complete continuing education as required by legislative rule; and

(4) Pass an examination approved by the board.

(d) On or before July 1, 2020, the Legislative Auditor shall cause to be performed a performance audit of the provisional license to practice as a social worker application process and the application process by which a provisional licensee may become a licensed social worker.

(e) Any employee of the Department of Health and Human Resources with a provisional license as of the effective date of this section who opted to take the department-provided courses previously allowed has until June 30, 2022, to convert his or her license to a social work license or provisional license under this section. If the individual cannot or desires not to complete this process, he or she shall be eligible for registration as provided in §30-30-30 of this code.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-110a Bureau of Social Service authority to hire and employ workers who are not social workers in geographical areas of critical shortage.

(a) The Legislature hereby finds that there is a crisis in West Virginia in certain geographical regions of the state, that is caused by an absence of people employed by the Department of Health

and Human Resources as child protective services workers, youth case workers, and support staff for these positions.

(b) Notwithstanding any other provisions of this code to the contrary, the Bureau of Social Services, pursuant to the provisions of this section, may employ persons who do not hold a social worker's license and persons who are not on the social work register to work for the bureau as child protective services workers, youth case workers and support staff, in geographical areas of critical shortage of this state.

(c) For purposes of this section "geographical areas of critical shortage" means those regions of West Virginia where the West Virginia Bureau of Social Services has a vacancy rate for child protective services workers, or youth service workers, that exceeds 25% of allocated positions.

(d) Workers hired by the bureau under this section to work in geographical areas of critical shortage may be employed by the bureau and work in said geographical areas as child protective services workers, youth service workers, case managers, clerical staff and in other related positions for the bureau.

(e) The provisions of this section shall operate independently of, and in addition to, any other provisions of law or policy that allow persons to be employed in these jobs, and the provisions of this section do not eliminate any other provisions of law that permit persons to be employed in the jobs described in this section.

(f) In order for a person to be eligible for employment under this section, he or she shall:

(1) Be at least 18 years of age.

(2)(A) Have an associate's degree in social work or a related field from an accredited college, university, community and technical college, community college or junior college; or

(B) Be an honorably retired law enforcement officer or be an honorably retired parole officer or honorably retired federal or state probation officer.

(3) Provide to the bureau three letters of recommendation from persons not related to the applicant.

(4) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the bureau, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(5) Satisfy the requirements of the West Virginia Clearance for Access Registry and Employment Screening Act, §30-1-24 of this code.

(C) Meet any other requirements established by the bureau.

(g) The bureau shall provide training to any and all persons hired and employed hereunder, as the bureau deems appropriate.

(h) The provisions of this section authorizing the hiring of persons shall sunset, expire, and be of no force and effect on or after the 31st day of December, 2028, but shall not serve to require the termination of persons hired pursuant to this section.”

And,

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

Com. Sub. for H. B. 3261- “A Bill to amend and reenact §30-30-16 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §49-2-110a all relating to social work and child welfare generally; directing that provisional social workers who are laid off or ill during the four year provisional licensure period may request the West Virginia Board of Social Work allow a reasonable interruption in service and allow additional time to complete the licensure requirements; declaring a crisis exists in certain parts of the state due to an absence of child protective services, youth services workers, youth case workers and support staff; defining affected geographical areas; authorizing the hiring of persons not on the social work register to fill positions; establishing the criteria

for employment; requiring the development to train the new workers; and establishing a sunset date for the program.”

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

On page 4, section §49-2-110a, line 35, by striking “§30-1-24 of this code” and inserting in lieu thereof the following:

“§16-49-1 *et seq.* of this code;

(6) Satisfy the requirements provided in §30-1-24 of this code”.

The motion to concur with further amendment was rejected.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request that the Senate recede.

A message from the Senate, by

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

H. B. 3286, Relating to an additional modification decreasing federal taxable income.

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

On page 2, section 6c, line 21, by striking out “2028” and inserting in lieu thereof “2033”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 587**), and there were—yeas 82, nays 11, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Dillon, Gearheart, Kirby, Kump, Linville, Longanacre, Miller, C. Pritt and Vance.

Absent and Not Voting: Criss, Griffith, Hanna, Mallow, Nestor, Ross and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3286) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3302, To recognize unborn child as distinct victim in a DUI causing death.

Delegate Householder moved that the House concur in the following amendment of the bill by the Senate:

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

**“CHAPTER 17C. TRAFFIC REGULATIONS AND RULES
OF THE ROAD.**

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances, or drugs; penalties.

(a) *Definitions.* —

(1) "Impaired state" means a person:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug or inhalant substance;

(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(2) "Bodily injury" means injury that causes substantial physical pain, illness, or any impairment of physical condition.

(3) "Controlled substance" has the meaning provided in §60A-1-101 of this code.

(4) "Serious bodily injury" means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(5) "Test and lock program" means the Motor Vehicle Test and Lock Program, established in §17C-5A-3a and administered by the Division of Motor Vehicles.

(b) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes the death of any person, which for purposes of this subsection, includes an embryo or fetus as authorized by the provisions of §61-2-30 of this code, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That any death charged under this subsection must occur within one year of the offense: *Provided, however*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(c) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes serious bodily injury to any person, other than himself or herself, 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 and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of five years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(d) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than one year and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of two years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. Any jail term imposed pursuant to this subsection shall include actual confinement of not less than 24 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(e) Any person who drives a vehicle on any public highway or private road in this state: (1) while he or she is in an impaired state; or (2) while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(f) Any person who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(g) Any person who, being a habitual user of narcotic drugs or amphetamines, or any derivative thereof, drives a vehicle on any public highway or private road in this state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the

Commissioner of the Division of Motor Vehicles for a period of six months. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(h) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this state by any other person who is in an impaired state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(i) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this state by any other person who is a habitual user of narcotic drugs or amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months.

(j) (1) Any person under the age of 21 years who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of 60 days or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for 24 hours and shall be fined not less than \$100

nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer, or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the test and lock program as provided in §17C-5A-3a of this code. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

(2) (A) Notwithstanding subdivision (1) of this subsection, a person shall have his or her license to operate a motor vehicle suspended or revoked for a minimum period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, if the person:

(i) Has previously been convicted under this subsection and is subsequently convicted of an offense under another subsection of this section; or

(ii) Is convicted under this subsection and has previously been convicted of an offense under another subsection of this section.

(B) Nothing in this subdivision permits a shorter period of license revocation, license suspension, or participation in the test and lock program than is mandatory for the specific offense for which the person is convicted.

(3) A person arrested and charged with an offense under the provisions of this subsection or subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

(k) Any person who drives a vehicle on any public highway or private road in this state while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their 16th birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That such jail term shall include actual confinement of not less than 48 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(l) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year, may be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the second conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, or fine shall be imposed: *Provided, however*, That this section does not apply to a second conviction that is subject to a period of license revocation under subsection (j) of this section.

(m) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on two or more occasions, 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 five years, shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, and the court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000: *Provided*, That if the third or subsequent conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, and fine shall be imposed: *Provided, however*, That this section does not apply to a third or subsequent conviction that is subject to a period of license revocation under subsection (j) of this section.

(n) For purposes of subsections (l) and (m) of this section relating to second, third, and subsequent offenses, the following events shall be regarded as offenses and convictions under this section:

(1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, or under a prior enactment of this section, for an offense which occurred within the 10-year period immediately preceding the date of arrest in the current proceeding;

(2) Any conviction under a municipal ordinance of this state or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, which offense occurred within the 10-year period immediately preceding the date of arrest in the current proceeding; and

(3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for violation of subsection (e) of this section, which violation occurred within the 10-year period immediately preceding the date of arrest in the current proceeding.

(o) A person may be charged in a warrant, indictment, or information for a second or subsequent offense, as described in subsection (j), (l), or (m) of this section, if the person has been previously arrested for, or charged with, a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location, and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this code.

(p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f), or (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance, or a drug does not constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section.

(q) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided, however*, That the court may impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense: *Provided further*, That for any period of home incarceration ordered for a person convicted of a second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days

notwithstanding the provisions of §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than 10 days of the total period of home confinement ordered and the offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

(r) A person whose license to operate a motor vehicle has been revoked or suspended by the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a comprehensive safety and treatment program as set forth in §17C-5A-3 of this code before his or her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.

(s) For any offense for which an alternative revocation period is permitted conditioned upon participation in the test and lock program, an alternative sentence may not be imposed without the consent of the driver.

(t) Upon entering the order of conviction for an offense under this section, or the imposition of conditional probation as provided in §17C-5-2b of this code, the clerk of the court shall immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

(u) The amendments made to this section during the 2020 regular session of the Legislature shall become effective on July 1, 2020.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

(a) This section may be known and cited as the Unborn Victims of Violence Act.

(b) For the purposes of this article, the following definitions shall apply: *Provided*, That these definitions only apply for purposes of prosecution of unlawful acts under this section and may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for purposes of argument in a civil cause of action, unless there has been a criminal conviction under this section.

(1) "Embryo" means the developing human in its early stages. The embryonic period commences at fertilization and continues to the end of the embryonic period and the beginning of the fetal period, which occurs eight weeks after fertilization or ten weeks after the onset of the last menstrual period.

(2) "Fetus" means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.

(c) For purposes of enforcing the provisions of §61-2-1, §61-2-4, §61-2-7, §61-2-9(a), §61-2-9(c), §61-2-10, §61-2-10b, 61-2-28(a), and §17C-5-2(b), a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims.

(d) *Exceptions.* — The provisions of this section do not apply to:

(1) Acts committed during a legal abortion to which the pregnant woman, or a person authorized by law to act on her behalf, consented or for which the consent is implied by law;

(2) Acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services, including, but not limited to, medical care, abortion, diagnostic testing or fertility treatment;

(3) Acts or omissions by medical or health care personnel or scientific research personnel in performing lawful procedures involving embryos that are not in a stage of gestation in utero;

(4) Acts involving the use of force in lawful defense of self or another, but not an embryo or fetus; and

(5) Acts or omissions of a pregnant woman with respect to the embryo or fetus she is carrying.

(e) For purposes of the ~~enforcement~~ of the provisions of this section, a violation of the provisions of ~~article two-i, chapter sixteen~~ §16-2R-1 et seq. of this code shall not serve as a waiver of the protection afforded by the provisions of subdivision (1), subsection (d) of this section.

(f) *Other convictions not barred.* — A prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant arising from the same incident.

And,

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

Com. Sub. for H. B. 3302 — “A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, and to amend and reenact §61-2-30 of said code; all relating to including an embryo or fetus as a distinct unborn victim for the offense of DUI causing death; and clarifying that a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims as applied to the offenses of DUI causing death.”

On the motion to concur in the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 588**), and there were—yeas 34, nays 60, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Dittman, Espinosa, Fehrenbacher, Fluharty, Forsht, Garcia, W. Hall, Hansen, Hornbuckle, Hott, Householder, Jeffries, Jennings, Kelly, Marple, McGeehan, Petitto, Phillips, E. Pritt, Pushkin, Riley, Rohrbach, Skaff, Smith, Storch, Walker, Warner, Westfall, Williams, Willis, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Criss, Griffith, Mallow, Nestor, Ross and Ward.

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

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request that the Senate recede.

A message from the Senate, by

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

Com. Sub. for H. B. 3479, Creating requirements for use of unmanned aerial vehicles.

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

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

**“ARTICLE 16. USE OF UNMANNED ~~AIRCRAFT~~
SYSTEMS AERIAL VEHICLE.**

§61-16-1. Definitions.

As used in this article:

(1) ‘Aircraft’ means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned ~~aircraft vehicles or systems~~ aerial vehicles;

(2) ‘Targeted facility’ means a critical infrastructure facility, as defined in §61-10-34 of this Code.

(3) ‘Unmanned aircraft system’ or ‘system aerial vehicles’ means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation

equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(3) (4) ‘Unmanned ~~aircraft system~~ aerial vehicle operator’ or ‘operator’ means a person exercising control over an unmanned ~~aircraft system~~ aerial vehicle during flight.

§61-16-2. Prohibited use of an unmanned ~~aircraft system~~ aerial vehicle; criminal penalties.

(a) Except as authorized by the provisions of this article, a ~~person may~~ it is unlawful for any person to ~~not~~ operate an unmanned ~~aircraft system~~ aerial vehicle:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person's permission, in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned ~~aircraft system~~ aerial vehicle in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) It is unlawful for any person to operate an unmanned aerial vehicle over the property of a targeted facility to:

(A) intentionally deploy any substance, material, projectile, or object,

(B) to conduct surveillance of, or gather evidence and information about such facility, with the intent to do harm to such facility the public or any person, or

(C) to engage in any attempt to obtain:

(i) business trade secrets, proprietary information, or,

(ii) protected Federal or state information for the operator's own use or profit.

(c) Nothing in this section prohibits a person from operating an unmanned aerial vehicle to conduct surveillance of, gather evidence and information about, or photographically or electronically record the person's own property or immovable property owned by another person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right: *Provided*, That nothing in this section prohibits third persons retained by the owner of immovable property from operating an unmanned aerial vehicle over, or to otherwise conduct surveillance of, gather evidence and information about, or to photographically or electronically record the property: *Provided, however*, That nothing in this section prohibits a person from operating an unmanned aerial vehicle in connection with production of a motion picture, television program, or similar production if the operation of the unmanned aerial vehicle is authorized by the property owner.

(d) The provisions of this section do not apply to a law-enforcement agency acting in compliance with the provisions of this article: *Provided*, That a law enforcement agency's operation of an unmanned aerial vehicle for the purpose of surveillance, investigation into crime, or any other purpose related to the enforcement of the criminal laws of this state or those of the United States shall be in accordance with the Fourth Amendment to the United States Constitution and Article III, § 6 of the constitution of this state.

(e) The provisions of this section do not apply to a news organization using a camera-carrying unmanned aerial vehicle at altitudes greater than 400 feet over private property for legitimate newsgathering purposes.

(f) Any person violating the provisions of subsection (a) or (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

~~(e)(g)~~ Any person who equips an unmanned ~~aircraft system~~ aerial vehicle with any deadly weapon or operates any unmanned ~~aircraft system~~ aerial vehicle equipped with any deadly weapon, other than for military purposes in an official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor 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.

~~(d)(h)~~ Any person who operates an unmanned ~~aircraft system~~ aerial vehicle with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

~~(e)(i)~~ A person that is authorized by the Federal Aviation Administration to operate unmanned ~~aircraft systems~~ aerial vehicles for commercial purposes may operate an unmanned ~~aircraft system~~ aerial vehicle in this state for such purposes if the unmanned ~~aircraft system~~ aerial vehicle is operated in a manner consistent with federal law.”

And,

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

Com. Sub. for H. B. 3479 – “A Bill to amend and reenact §61-16-1 and §61-16-2 of the Code of West Virginia, 1931, as amended, all relating to unmanned aerial vehicles; adding

definitions; updating terminology to be consistent with the new definitions; establishing the crime of operating an unmanned aerial vehicle over the property of a targeted facility; establishing exceptions to the prohibitions contained in the article for law enforcement activity conducted in accordance with the provisions of this article and the federal and state constitutions; clarifying that these regulations do not prohibit the authorized operation of drones by landowners or third parties hired by a landowner to surveil, photograph, or otherwise involving their own land; and requiring compliance with federal laws and regulations relating to unmanned aerial vehicles.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 589**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Criss, Griffith, Mallow, Martin, Nestor, Ross and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3479) passed.

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

Resolutions Introduced

By Delegate Hanshaw (Mr. Speaker):

H. C. R. 78 – “Proclaiming the extension of a state of emergency in our correctional institutions”, was reported by the Clerk.

At the respective requests of Delegate Householder, and by unanimous consent, H. C. R. 78 was taken up for immediate consideration, and adopted.

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

By Delegate Hornby:

H. C. R. 79 – “Requesting the Department of Economic Development to create a plan of incentives to encourage small businesses based in agri-tourism, craft breweries, distilleries, vineyards, wineries, and other specialized agricultural tourism interests to locate or relocate to West Virginia”; which was referred to the Committee on Rules

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order as unfinished business, were, in the absence of objection, considered en bloc, and adopted:

Com. Sub. for S. C. R. 4, US Navy S1 Ira "Noon" Copley and Marie Copley Memorial Bridge,

S. C. R. 8, US Army PV 2 Harold Richard Plumley Memorial Bridge,

Com. Sub. for S. C. R. 10, US Army Air Corps PVT Albert J Sutphin Memorial Highway,

Com. Sub. for S. C. R. 13, Wyant Brothers WWII Veterans Memorial Road,

And,

Com. Sub. for S. C. R. 16, US Army 1SG James Arnold Browning Memorial Bridge.

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

The following resolutions, coming up in regular order as unfinished business, were reported by the Clerk and, there being no requests for separate votes, adopted with one voice vote:

H. C. R. 52, Study the financial effects of raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal, public service district, county and state public works project.,

H. C. R. 57, Requesting Department of Economic Development to create a plan of incentives to encourage small businesses in highly regulated states to relocate to WV,

H. C. R. 59, Requesting a study to establish a motorsport events welcome center and implement a program to promote motorsport events in West Virginia,

H. C. R. 60, Requesting the Joint Committee on Government and Finance study the economic and tourism impacts creating a cross state biking and hiking trail.,

H. C. R. 65, Requesting a study of the effects of eliminating the mandatory inspection of motor vehicles,

H. C. R. 66, Requesting a study on the effects of conservation easements,

H. C. R. 67, Requesting a study of the effects of using blockchain technology on vital public and government data security.,

H. C. R. 68, Requesting a study on the effects of site preparedness on economic development.,

And,

H. C. R. 69, Requesting a study on the use of larger crews and continuous working hours on smaller roadway projects.

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

Third Reading

S. B. 146, Modifying regulations of peer-to-peer car sharing program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 590**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, Garcia, Griffith, Hardy, Mallow, Nestor, Ross, Ward and Willis.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 146) passed.

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

S. B. 149, Exempting certain organizations from property taxation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 591**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, Griffith, Hardy, Mallow, Nestor, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 149) passed.

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

Com. Sub. for S. B. 151, Levying tax on pass-through entity's income; on third reading, coming up in regular order, was read a third time.

Delegates Brooks, Burkhammer, Cannon, Clark, Criss, DeVault, Ellington, Fast, Forsht, Foster, Gearheart, A. Hall, Hanna, Hansen, Hardy, Heckert, Holstein, Hornby, Hott, Householder, Howell, Jennings, Kirby, Linville, Martin, Maynor, C. Pritt, Riley, Skaff, Steele, Street and Tully requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and did not excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 592**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Garcia, Griffith, Hillenbrand, Kump, Mallow, Nestor, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 151) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 151 - “A Bill to amend and reenact §11-21-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-21-3a; and to amend and reenact §11-21-20 of said code, all relating to West Virginia income tax paid by pass-through entities; authorizing certain entities to elect to pay West Virginia income tax; defining terms; imposing a tax on pass-through entities which elect to pay West Virginia income tax at the entity level;

authorizing an income tax credit for an owner for such tax paid; providing rulemaking authority; providing for a tax credit for income tax paid to another state; and providing effective dates.”

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

S. B. 244, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 593**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Holstein and Young.

Absent and Not Voting: Garcia, Griffith, Mallow, Nestor, E. Pritt, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 244) passed.

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

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 594**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Garcia, Griffith, Honaker, Mallow, Nestor, E. Pritt, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 273) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 273 - “A Bill to amend and reenact §49-2-101, §49-2-102, and §49-2-809 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §49-10-101, §49-10-102, and §49-10-103; to amend said code by adding thereto a new article, designated §49-11-101, all relating to child welfare; continuing the Bureau for Social Services; providing authority to the bureau; providing how the commissioner shall allocate child protective service workers; requiring reporting; requiring the department to have a redundancy centralized intake system; setting forth requirements for data submission in the event a system exists; providing that the Bureau for Social Services shall develop a merit-based system; providing legislative findings; providing the merit-based system shall be subject to the grievance process, except that there is no grievance available for the same classification description impacted by regional pay disparities; providing that for existing employees there is no grievance procedure for a regional pay disparity for the same job classification and establishing timeframes for implementation.”

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

On this question, the yeas and nays were taken (**Roll No. 595**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Garcia, Griffith, Honaker, Mallow, Nestor, E. Pritt, Ross and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 273) takes effect from its passage.

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

Com. Sub. for S. B. 294, Clarifying amount of deputy sheriff annual salary increase; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 596**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Garcia, Griffith, A. Hall, Honaker, Jennings, Mallow, Nestor, E. Pritt, Ross, Ward and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 294) passed.

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

Com. Sub. for S. B. 345, Authorizing Department of Revenue to promulgate legislative rules; on third reading, coming up in regular order, with amendment pending, was reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page 2, section 2, subsection (a), line 3, by striking the period and inserting in lieu thereof the following:

“with the amendment set forth below:

On page 1, section 2, by striking out the words “Nothing in this rule shall be construed to create or imply a private cause of action for a violation of this rule or to subject a producer to civil liability under the best interest standard of care outline in Section 5 of this rule or under standards governing the conduct of a fiduciary or a fiduciary relationship.”;

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 597**), and there were—yeas 76, nays 15, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Dillon, Fluharty, A. Hall, Hansen, Hornbuckle, Pushkin, Reynolds, Rowe, Sheedy, Storch, Vance, Walker, Williams and Young.

Absent and Not Voting: DeVault, Griffith, Linville, Mallow, Nestor, C. Pritt, Ross, Ward and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 345) passed.

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

On this question, the yeas and nays were taken (**Roll No. 598**), and there were—yeas 76, nays 14, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Dillon, Fluharty, A. Hall, Hansen, Pushkin, Reynolds, Rowe, Storch, Vance, Walker, Williams, Willis and Young.

Absent and Not Voting: DeVault, Griffith, Linville, Mallow, Nestor, C. Pritt, Ross, Steele, Ward and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 345) takes effect from its passage.

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

S. B. 465, Increasing limit on moneys placed in county's rainy day fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 599**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Linville, Mallow, Nestor, Ross, Steele, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 465) passed.

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

Com. Sub. for S. B. 478, Relating to Jumpstart Savings Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 600**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Mallow, McGeehan, Nestor, Ross, Steele, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 478) passed.

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

On this question, the yeas and nays were taken (**Roll No. 601**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Mallow, McGeehan, Nestor, Ross, Steele, Ward and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 478) takes effect from its passage.

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

S. B. 488, Aligning state and federal accreditation rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 602**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Foster.

Absent and Not Voting: Griffith, Mallow, McGeehan, Nestor, Pushkin, Ross, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 488) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

S. B. 488 – “A Bill to amend and reenact §18B-4-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18B-4-7a, all relating to aligning state and federal accreditation rules; requiring the Higher Education Policy Commission, the Council for Community and Technical College Education and the institutional governing boards of the exempted schools to regularly update their rules regarding accreditation to conform to federal regulations; requiring the council, commission, and governing boards to promulgate rules, by December 31, 2023, to permit institutions to choose to pursue accreditation with a recognized accreditor; making

findings; requiring the council, commission, and governing boards to amend their regulations regarding accreditation by December 31, 2023; and providing that any regulations that imply or state that certain accreditors must be used are incorrect and must be amended.”

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

Com. Sub. for S. B. 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 603**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Coop-Gonzalez, Griffith, Mallow, McGeehan, Nestor, Pushkin, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 543 - “A Bill to amend and reenact §29A-3A-1 and §29A-3A-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29A-3A-2a; to amend and reenact §29A-3A-3, §29A-3A-4, §29A-3A-5, §29A-3A-6, §29A-3A-7, §29A-3A-8, §29A-3A-9, §29A-3A-10, §29A-3A-11, §29A-3A-11a, §29A-3A-12, §29A-3A-13, §29A-3A-14, §29A-3A-15, §29A-3A-16, §29A-3A-16a, §29A-3A-17, §29A-3A-18, and §29A-3A-20, all relating to higher education and school building authority rule-making authority; revising definitions; requiring all sections of rule to be filed when proposing an amendment to an existing rule; requiring rule to be accompanied by note of explanation; requiring agency

proposing to repeal a rule to file the rule in its entirety with the provisions of the rule struck through; making provisions applicable to procedural and interpretive rules applicable to legislative exempt rules; allowing an agency to hold a public hearing, schedule a public comment period, or both; requiring agency to respond to public comments and explain the reasoning for comments being incorporated or not incorporated into the rule; reducing time period for filing of notices of hearings for receiving public comment on a proposed rule; allowing repeal of a legislative exempt, procedural, or interpretive rule by filing notice of repeal with the Secretary of State; establishing timelimit for filing of notice of approval with the Secretary of State and the Legislative Oversight Commission on Education Accountability (LOCEA); requiring LOCEA make a continuing investigation, study, and review of the practices, policies, and procedures of the State Board of Education; requiring electronic submission of agency-approved rule to LOCEA; requiring electronic filing of notice of approval in the State Register; adding to information that electronic copies of the proposed legislative rule is to include; modifying topics LOCEA's review of a proposed legislative rule is to include; modifying LOCEA's options in making recommendations to the Legislature after reviewing a legislative rule; requiring bill authorizing legislative rule to incorporate the amendments recommended by LOCEA; modifying date after which proposed legislative rules submitted to LOCEA can be withheld from its report to the clerk of the respective houses; modifying provisions pertaining to bills of authorization; removing provisions pertaining to computation of dates; allowing disapproval of rules not approved or acted upon by the Legislature; requiring Secretary of State to publish an authorized and promulgated legislative rule in the Code of State Rules; adding to information that must be filed with emergency rules in the State Register; providing for effective date for emergency rule and amendment to emergency rule; requiring the agency to file a copy of the emergency rule and the required statement with the Secretary of State and LOCEA; reducing time periods the agency has for filing a notice of public hearing on a proposed emergency rule and for filing the proposed emergency rule with LOCEA; removing provision pertaining to emergency legislative rules currently in effect; making certain provisions

pertaining to filing an emergency rule and disapproval of an emergency rule applicable to filing an amendment to an emergency rule and disapproval of an emergency rule; modifying provisions pertaining to LOCEA's review of procedural rules, interpretive rules, or existing legislative rules; providing for prior rules to remain in full force and effect; modifying required sunset date; specifying procedure for renewing legislative rule; and requiring Secretary of State to file a notice of sunset in the State Register within 30 days following expiration of a legislative rule."

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

On this question, the yeas and nays were taken (**Roll No. 604**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Mallow, McGeehan, Nestor and Ross.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) takes effect from its passage.

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

S. B. 559, Relating to spousal privilege; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 605**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Mallow, McGeehan, Nestor and Ross.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 559) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

S. B. 559 – “A Bill to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to spousal privilege; clarifying what constitutes a valid marriage for purposes of the provisions of §48-1-101 *et seq.* for purposes of spousal privilege; clarifying the exceptions to spousal privilege to exclude therefrom cases where an offense is committed by one spouse against another spouse, or against the child, father, mother, sister or brother of either of them; expanding the exceptions to spousal privilege to exclude therefrom cases where either spouse is charged with forgery of the name of the other or uttering, or attempting to utter a writing bearing the allegedly forged signature of the other; expanding the exceptions to spousal privilege to exclude therefrom cases where a court determines that each conspired or acted jointly in the commission of the crime charged; expanding the exceptions to spousal privilege to exclude therefrom proceedings relating to a violation of the laws pertaining to §61-8B-1, *et seq.* of this code, §61-8C-1 *et seq.* of this code, §61-8D-1 *et seq.* of this code, or any violation of §61-2-1 *et seq.* where the victim is an infant or minor as that term is defined in §2-2-10 of this code; expanding the exceptions to spousal privilege to exclude therefrom cases where the victim is incompetent due to a mental disease or defect or other disability.”

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

Com. Sub. for S. B. 613, Relating generally to certificates of need; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 606**), and there were—yeas 75, nays 20, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Nays: Cannon, Chiarelli, Foggin, A. Hall, Hansen, Hornbuckle, Hott, Keaton, Kirby, Linville, McGeehan, E. Pritt, Pushkin, Rowe, Statler, Steele, Toney, Vance, Walker and Ward.

Absent and Not Voting: Griffith, Mallow, Nestor, Ross and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 613) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 613 - “A Bill to amend and reenact §16-2D-2, §16-2D-8, §16-2D-10, and §16-2D-11 of the Code of West Virginia 1931, as amended, all relating to certificate of need; defining terms; removing reviewable services; providing a physician office practice that meets specified criteria may acquire imaging technology; providing for data verification; providing that hospitals performing hospital services are exempt from certificate of need requirements; providing that birthing centers are exempt from certificate of need review; deeming certain hospitals as trauma centers; and removing exemptions.

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

On this question, the yeas and nays were taken (**Roll No. 607**), and there were—yeas 83, nays 13, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: A. Hall, Hansen, Hott, Kirby, Linville, E. Pritt, Pushkin, Rowe, Steele, Toney, Vance, Walker and Ward.

Absent and Not Voting: Griffith, Mallow, Nestor and Ross.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 613) takes effect from its passage.

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

S. B. 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs; on third reading, coming up in regular order, with amendment pending, was reported by the Clerk.

An amendment was recommended by the Committee on Education, and adopted, on page 2, section 1a, line 27, after the word “program” by striking out the words “Hope Scholarship kindergarten program,”;

And

On page 2, section 1a, line 38, after the words “homeschool program” by inserting the word “or”;

And

On page 2, section 1a, line 39, after the word “program” by striking out the comma and the words “or HOPE scholarship program”.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 608**), and there were—yeas 82, nays 9, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, Hornbuckle, E. Pritt, Pushkin, Rowe, Skaff and Young.

Absent and Not Voting: Griffith, Householder, Linville, Mallow, Nestor, Ross, Walker, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 625) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

S. B. 625 – “A Bill to amend and reenact §18-8-1a of the Code of West Virginia, 1931, as amended, all relating to compulsory school attendance; removing references to Hope Scholarship kindergarten program and Hope Scholarship program transcripts or credentials; and providing that transcripts or credentials of microschool programs to be accepted as record of student's previous performance for placement and credit assignment.”

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

Com. Sub. for S. B. 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 609**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 649) passed.

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

Com. Sub. for S. B. 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission; on third reading, coming up in regular order, with amendment pending, was reported by the Clerk.

An amendment was recommended by the Committee on Education, and adopted, on page

1, after the enacting clause, by striking out the remainder of the bill and inserting, in lieu thereof, the following:

“ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25e. Requiring the Legislative Auditor conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission.

(a) The Legislative Auditor may, at reasonable and prudent intervals, conduct performance audits of the commission.

(b) The Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the commission, which shall allow the Legislative Auditor to inspect all records and accounts of the commission and to examine the personnel of the commission. *Provided:* That for any legally protected information provided or disclosed to the Legislative Auditor pursuant to this section, the Legislative Auditor shall protect the confidentiality, privacy, or security of the protected information in like manner and with the same duty as is required of the commission.

(c) The Legislative Auditor shall complete an initial performance audit of the commission by December 1, 2023, and, on that date, deliver a report thereof to the Joint Committee on Government and Finance and to the Legislative Oversight Commission on Education Accountability.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 610**), and there were—yeas 49, nays 43, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Nays: Adkins, Anderson, Barnhart, Cannon, Clark, Dittman, Fehrenbacher, Ferrell, Fluharty, Forsht, Garcia, W. Hall, Hansen, Heckert, Hillenbrand, Honaker, Hornbuckle, Householder, Howell, Jennings, Longanacre, Marple, Miller, E. Pritt, Pushkin, Reynolds, Riley, Rowe, Shamblin, Sheedy, Skaff, Statler, Storch,

Street, Summers, Toney, Tully, Walker, Ward, Warner, Williams, Young and Zatezalo.

Absent and Not Voting: Dillon, Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 667) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 667 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e; all relating to requiring the legislative auditor to conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission; granting the legislative auditor the power and authority to conduct examinations and inspections; requiring the legislative auditor to protect the confidentiality, privacy, and security of protected information; and establishing deadline for initial performance audit and reporting requirements.”

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

H. B. 3109, Supplementing and amending appropriations to the State Board of Education - State Department of Education; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 611**), and there were—yeas 83, nays 10, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Chiarelli, Dillon, Foster, A. Hall, Longanacre, Ridenour and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3109) passed.

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

On this question, the yeas and nays were taken (**Roll No. 612**), and there were—yeas 85, nays 8, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Chiarelli, Dillon, Gearheart, A. Hall and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3109) takes effect from its passage.

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

H. B. 3542, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 613**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Dillon and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3542) passed.

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

On this question, the yeas and nays were taken (**Roll No. 614**), and there were—yeas 90, nays 2, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Dillon and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Maynor, Nestor, Ross, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3542) takes effect from its passage.

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

At 1:38 p.m., the House of Delegates recessed until 3:30 p.m.

* * * * *

Afternoon Session

* * * * *

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

Special Calendar

-continued

Second Reading

Com. Sub. for S. B. 47, Creating Charter Schools Stimulus Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 121, Creating Student Journalist Press Freedom Protection Act; on second reading, coming up in regular order, was read a second time.

An amendment offered by Delegate Foggin was reported by the Clerk.

Whereupon,

Delegate Foggin asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Fast, the bill was amended on page 2, section 4, line 11, by striking subdivision (3) of subsection (b) in its entirety and inserting in lieu thereof the following:

“(3) Is obscene, vulgar, pornographic, or of sensual or illicit sexual content;”

And

On page 4, section 4, line 39, by inserting after the word “students” the words “in conformity with this section”

The bill was then ordered to third reading.

S. B. 147, Creating pilot program for recovery residences in Cabell County; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, on page one by striking everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 37. REAL PROPERTY.

ARTICLE 6. LANDLORD AND TENANT.

§37-6-5a. Recovery residences; pilot program.

(a) The purpose of this section is to create a pilot program in Cabell County to study the uniqueness of recovery residences as

they relate to landlord-tenant law and determine an equitable resolution when circumstances arise which bring about an unanticipated cessation of an individual's participation in a recovery residence's program.

(b) For the purposes of this section:

(1) 'Recovery residence' has the meaning ascribed in §16-59-1(4) of this code and applies solely to recovery residences:

(A) Not certified by the West Virginia Alliance of Recovery Residences; and

(B) Located within Cabell County.

(2) 'Residence agreement' means an agreement between an individual residing in a recovery residence and the recovery residence.

(3) 'Resident' means a person residing in and receiving services from a recovery residence.

(c) A recovery residence may immediately discharge a resident without filing a petition for summary relief for wrongful occupation of residential rental property for any of the following reasons:

(1) The use, possession, or distribution of alcohol, any controlled substance, or prescription medication for which the resident does not have a valid prescription;

(2) Sexual misconduct;

(3) Any crime of violence against a person or threat of crime of violence against a person;

(4) Any conduct which jeopardizes the safety of another resident; or

(5) Destruction of the premises.

(d) If a recovery residence seeks to discharge a resident for a reason not enumerated in subdivisions (1) through (5), subsection (c) of this section, the resident is entitled to the due process and protections afforded a 'tenant' as that term is defined in §37-6A-1 of this code; the recovery residence shall be treated as a 'landlord' as that term is defined in §37-6A-1 of this code; and the recovery residence shall be required to proceed against the resident under §55-3A-1 of this code with the filing of a petition for summary relief seeking removal of the resident for wrongful occupation of residential rental property: *Provided*, That any provision of a recovery residence agreement seeking to waive or limit the protections afforded a resident in this section is void.

(e) If a resident is discharged, evicted, or otherwise removed from a recovery residence prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or services, the recovery residence shall issue a refund of the rent or fee to the discharged resident in an amount prorated, on a per diem basis, to account for the remainder of that time period.

(f) If requested by the resident, a recovery residence shall first apply any refund required by subsection (e) of this section to costs related to placing the resident in a higher level care facility or transferring the resident to another recovery residence: *Provided*, That if the resident does not request to be placed in a higher level care facility or does not request to be transferred to another recovery residence, within 72 hours of a resident's discharge, eviction, or removal, the recovery residence shall issue any refund due to a resident: *Provided, however*, That if the rent or fee moneys were paid by a third party on behalf of the resident, any refund required by subsection (e) of this section shall be issued directly to the third-party payor within 72 hours of a resident's discharge, eviction, or removal.

(g) If a resident was transported by the recovery residence from a location more than 20 miles from the recovery residence and is discharged, evicted, or otherwise removed from the recovery residence, the recovery residence shall provide transportation to the location from which the resident was initially transported to the

discharged, evicted, or otherwise removed resident, at the expense of the recovery residence.

(h) If the resident is discharged, evicted, or otherwise removed prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or service, the recovery residence shall report non-identifying resident information regarding the reason for the early discharge, eviction, or removal of the resident to the Department of Health and Human Resources' Bureau for Behavioral Health.

(i) On or before July 1, 2023, the Department of Health and Human Resources' Bureau for Behavioral Health shall prepare and submit to the Joint Committee on Government and Finance a written report which includes, at a minimum:

(1) The information specified in subsection (h) of this section for the period May 1, 2022, through May 1, 2023;

(2) An evaluation of the effectiveness of the pilot program;

(3) A recommendation as to whether the pilot program created in this section should be continued, reduced, expanded, terminated, or otherwise modified;

(4) Any recommended legislation; and

(5) Any other issues deemed relevant.

(j) This section shall not be construed to affect rights under the West Virginia Fair Housing Act, W. Va. Code §5-11A-1 *et seq.*

(k) This section shall be of no further force and effect on May 1, 2024.

ARTICLE 6A. RESIDENTIAL RENTAL SECURITY DEPOSITS.

§37-6A-5. Landlord's noncompliance.

(a) If a landlord fails to comply with any of the provisions of this article, and ~~such~~ the noncompliance is willful or not in good faith, the tenant is entitled to a judgment for:

(1) The amount of any unreturned security deposit; and

(2) Damages for annoyance or inconvenience resulting from the landlord's nonconformance equal to one and a half times the amount wrongfully withheld, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to any amount awarded to the tenant pursuant to this subsection to be credited against any rent due to the landlord: Provided, That if an individual is residing in a recovery residence as defined in §37-6-5a of this code, the recovery residence is required to comply with the provisions of this article, and if the recovery residence's noncompliance is willful or not in good faith, the court shall also award reasonable attorney's fees.

(b) Jurisdiction for any civil action brought pursuant to this article shall be in magistrate ~~court~~ or circuit court in the county where the residential rental premises or units are located.

(c) This section does not limit rights or remedies available to a landlord or tenant under any other law.

(d) The amendments to this section enacted by the Legislature during the 2023 Regular Session shall not be construed to affect rights under the West Virginia Fair Housing Act, W. Va. Code §5-11A-1 et seq.

(e) This section shall not apply to a resident of a recovery residence as defined in §37-6-5a of this code after May 1, 2024.

CHAPTER 55. ACTIONS, SUITS, AND ARBITRATION; JUDICIAL SALE.

ARTICLE 3A. REMEDIES FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.

§55-3A-1. Petition for summary relief for wrongful occupation of residential rental property.

(a) A person desiring to remove a tenant, including a resident of a recovery residence as defined in §37-6-5a of this code who is

discharged for a reason other than those enumerated in §37-6-5a(c)(1) through (5) of this code, from residential rental property may apply for ~~such~~ relief to the magistrate ~~court~~ or the circuit court of the county in which ~~such~~ the property is located, by verified petition, setting forth the following:

(1) That he or she is the owner or agent of the owner and as such has a right to recover possession of the property;

(2) A brief description of the property sufficient to identify it;

(3) That the tenant is wrongfully occupying ~~such~~ the property in that the tenant is in arrears in the payment of rent, has breached a warranty or a leasehold covenant, or has deliberately or negligently damaged the property or knowingly permitted another person to do so, and describing such arrearage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) Previous to the filing of the petition the person shall request from the court the time and place at which the petitioner shall be heard. The court shall fix a time for ~~such~~ the hearing, which time shall not be less than five nor more than 10 judicial days following ~~such~~ the request.

(c) Immediately upon being apprised of the time and place for the hearing, the petitioner shall ~~cause~~ have a notice of the ~~same to be hearing~~ served upon the tenant in accordance with the provisions of Rule 4 of the West Virginia Rules of Civil Procedure or by certified mail, return receipt requested. ~~Such~~ The notice shall inform the tenant that any defense to the petition ~~must~~ shall be submitted in writing to the petitioner within five days of the receipt by the tenant of the notice, and in no case later than the fifth day next preceding the date of hearing. Upon receipt of the return of service or the return receipt as the case may be, evidencing service upon the tenant, the petitioner shall file with the court his or her petition and such proof of service.

(d) The amendments to this section enacted by the Legislature during the 2023 Regular Session shall not be construed to affect

rights under the West Virginia Fair Housing Act, W. Va. Code §5-11A-1 et seq.

(e) This section shall not apply to a resident of a recovery residence as defined in §37-6-5a of this code after May 1, 2025.”

On motion of Delegate Capito, the amendment was amended, on page 3, section 5a, line 56, by striking the word “2023” and inserting in lieu thereof the word “2024”

And

On page 3, section 5a, line 59, by striking the word “2022” and inserting in lieu thereof the word “2023”

And

On page 3, section 5a, line 60, by striking the word “2023” and inserting in lieu thereof the word “2024”

And

On page 6, section 1, line 29, by striking the word “2025” and inserting in lieu thereof the word “2024”

Delegate Pushkin moved to amend the Judiciary Committee amendment on page 2, section 5a, line 21 by striking out the word “or”;

And,

On line 22 following the word “premises” by striking out the period, inserting a semi-colon and the following: ”or,

(6) For violating the express terms of a residency agreement signed by the resident prior to admission to the recovery residence.”;

And,

On page 2, Section 5a, line 24, by striking out the number "(5)" and inserting in lieu thereof, the number "(6)"

And,

On page 2, Section 5a, lines 29 through 31, by striking out the colon on line 29 and inserting in lieu thereof a period and striking out the proviso on lines 29 through 31.

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

The yeas and nays having been ordered, they were taken (**Roll No. 615**), and there were—yeas 30, nays 60, absent and not voting 10, with the yeas and the absent and not voting being as follows:

Yeas: Burkhammer, Chiarelli, Coop-Gonzalez, Dittman, Ellington, Ferrell, Fluharty, Foster, Garcia, Griffith, A. Hall, Hanna, Hansen, Hite, Holstein, Hornbuckle, Hornby, Keaton, Kump, Maynor, Petitto, E. Pritt, Pushkin, Rowe, Skaff, Smith, Statler, Summers, Walker and Williams.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Riley, Ross, Steele, Ward and Young.

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

The amendment, as amended, was adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 200, Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5j. Leashed dogs for tracking mortally wounded deer, elk, turkey, wild boar, or bear.

(a) Notwithstanding any provision of this chapter to the contrary, a person who is legally hunting and reasonably believes he or she has mortally wounded a deer, elk, turkey, wild boar, or bear may use leashed dogs to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter is also permitted to use a dog handler of leashed dogs to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter or the dog handler shall always maintain physical control of the leashed dogs.

(b) The act of tracking a mortally wounded deer, elk, turkey, wild boar, or bear with a dog is hunting and the hunter and handler are subject to all applicable laws and rules. It is unlawful for a hunter or dog handler to track deer, elk, turkey, wild boar, or bear with leashed dogs under the provisions of this section unless he or she is in possession of a valid hunting license issued pursuant to this article or is a person excepted from licensing requirements pursuant to this article, and all other lawful authorizations as prescribed in this article. The hunter shall accompany the dog handler and only the hunter may kill a mortally wounded deer, elk, turkey, wild boar, or bear. However, any hunter who is physically unable to accompany the handler in the tracking and locating of the mortally wounded deer, elk, wild turkey, boar, or bear may designate the handler to kill the deer, elk, wild turkey, boar, or bear when located by the handler. The deer, elk, turkey, wild boar, or bear shall count toward the bag limit of the hunter who fired the initial shot.

(c) Any dog handler providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 of this code.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 220, Industrial Hemp Development Act; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 232, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.

§27-6A-12. Development of a strategic plan for a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, cognitive disabilities, and substance use disorders away from the criminal justice system into treatment and to promote continuity of care and interventions; directing submission of a report to the Legislature.

(a) The Legislature finds that the state’s adult and juvenile forensic patient populations continue to increase and that the placement of forensic patients at state health care facilities, diversion facilities, group homes, transitional living facilities, in the community, and other settings continues to rapidly escalate. The Legislature further finds that persons with mental illness, developmental disabilities, cognitive disabilities, and/or substance use disorder may be overrepresented in the criminal justice system, and many of these people might not present a danger to the public

if they could participate in a functioning community behavioral health continuum of care. The Legislature further finds that the increasing adult and juvenile forensic patient populations, the placement and treatment of adult and juvenile forensic patients, and the release of persons with mental illness, developmental disabilities, and other disabilities creates significant clinical, public safety, staffing, and fiscal needs and burdens for the judiciary, law enforcement, state health care facilities, correctional facilities, behavioral health professionals, hospitals, and the public. The Legislature further finds that there is a need for improved coordination among the Department of Health and Human Resources, the Division of Corrections and Rehabilitation, and the Division of Rehabilitation Services to promote the identification, safe discharge, and effective community intervention and placement of persons who suffer from mental illness, a developmental disability, a cognitive disability, and/or substance use disorder. The Legislature further finds that there is a need to develop functional standards and protocols for the identification, management, qualified assessment, and treatment of adult and juvenile forensic patients.

(b) The Chairman of the Dangerousness Assessment Advisory Board (DAAB) shall convene a multi-disciplinary study group of the following persons:

- (1) The Statewide Forensic Clinical Director;
- (2) The Statewide Forensic Coordinator;
- (3) The two forensic psychiatrists who are members of the board;
- (4) The two psychologists who are members of the board;
- (5) The Director of the Office of Drug Control Policy;
- (6) A designee of the Supreme Court of Appeals;
- (7) A designee of the Bureau of Children and Families with experience in juvenile forensic matters;

(8) A designee of the Division of Corrections and Rehabilitation;

(9) A designee of the Division of Rehabilitation Services;

(10) A designee of the Prosecuting Attorneys Institute;

(11) A designee of the Public Defender Services;

(12) A designee of the West Virginia Behavioral Healthcare Providers Association who is a licensed clinician with forensic patient experience;

(13) A designee of the West Virginia Hospital Association;

(14) A designee of the West Virginia Housing Development Fund;

(15) A designee of Disability Rights of West Virginia;

(16) A designee of the West Virginia Sheriff's Association;

(17) A designee of the Juvenile Justice Commission; and

(18) A designee of the West Virginia University Center for Excellence in Disabilities.

(c) The purpose of the multi-disciplinary study group is to provide opinion, guidance, and informed objective expertise to the Legislature regarding each of the following areas:

(1) The development and implementation of a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, cognitive disabilities, and/or substance use disorders away from the criminal justice system and into community-based treatment or other settings where appropriate;

(2) The review and recommendation of standards and protocols for the evaluation, treatment, management, and stabilization of adult and juvenile forensic patients;

(3) A recommendation regarding standards and protocols to promote continuity of care and interventions for adult and juvenile forensic patients and inmates released from correctional facilities;

(4) The recommendation of a model to coordinate services and interventions among the Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the court system to facilitate the appropriate diversion, identification, evaluation, assessment, management, and placement of adults and juveniles who suffer from mental illness, a development disability, a cognitive disability, and/or substance use disorder to ensure public safety and the effective clinical management of such persons;

(5) The identification of potential funding sources and the scope of resources needed for the implementation of the study group's recommendations; and

(6) Any other issues related to addressing the Legislature's findings.

(d) The provisions of §6-9A-1 *et seq.* and §29B-1-1 *et seq.* of this code are inapplicable to the operation of the study group.

(e) The written recommendations of the study group shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before November 30, 2023.

(f) Each member of the multi-disciplinary study group whose regular salary is not paid by the State of West Virginia shall be paid the same compensation and expense reimbursement that is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. Reimbursement for expenses shall not be made, except upon an itemized account, properly certified by the members of the study group. All reimbursement for expenses shall be paid out of the State Treasury upon a requisition upon the State Auditor."

The bill was then ordered to third reading.

S. B. 240, Requiring state board of examination or registration proceedings to be open to public inspection; on second reading, coming up in regular order, was read a second time

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

**“ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO
ALL STATE BOARDS OF EXAMINATION OR
REGISTRATION REFERRED TO IN CHAPTER.**

**§30-1-12. Record of proceedings; register of applicants;
certified copies of records prima facie evidence; report to
Governor and Legislature; public access.**

(a) The secretary of every board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each the date of his or her application, his or her name, age, educational and other qualifications, ~~place of residence~~ mailing address, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof. ~~The books and register of the board shall be open to public inspection at all reasonable times, and the~~ The books and register, or a copy of any part thereof, certified by the secretary and attested by the seal of the board, shall be prima facie evidence of all matters recorded therein.

(b) The record of the board's proceedings shall be open to public inspection at all reasonable times and copies provided upon oral or written request after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

(c) The register of applicants shall be made available upon written request on a form prescribed by the board. The form shall require the requester to provide at least the following information:

(1) Legal identity;

(2) Purpose for which the register is sought;

(3) A telephone number where the requester may be contacted by the board; and

(4) Whether copies of the register are requested.

If requested, copies of the register shall be provided after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

The board may deny a request that the register, or copies thereof, be made available or provided if it determines, in its discretion, that the request is made for an improper purpose.

~~(b)~~ (d) On or before January 1 of each year in which the Legislature meets in regular session, the board shall submit to the Governor and to the Legislature a report of its activities for the preceding two years, containing the following information for that period:

(1) The total receipts and disbursements for each year;

(2) A list of amounts received in each year for the following categories of receipts:

(A) License applications, registrations, and renewals;

(B) Examination fees, if applicable;

(C) Other fees, including late fees, copying charges, and fees for printed certificates;

(D) Fines or penalties;

(E) Expense reimbursements from disciplinary actions; and

(F) Grants, special appropriations, or other sources of revenue not from fees;

(3) A list of amounts spent in each year for the following categories of expenditures:

(A) Personal services;

(B) Board member per diem compensation;

(C) Travel expenses and automobile mileage;

(D) Professional contracts;

(E) Rent;

(F) Office supplies;

(G) Postage;

(H) Entertainment and hosting;

(I) Insurance; and

(J) Bank costs;

(4) A complete list of the names of all persons newly licensed or registered;

(5) A table or list showing numbers of licensees or registrants by West Virginia county of practice or, for out-of-state licensees or registrants, by state of residence, and by specialty, if appropriate to the particular profession;

(6) Complaints filed and investigations opened by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any;

(7) In addition to complaints reported under the preceding ~~subsection~~ subdivision, complaints resolved and investigations closed by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time

requirements of §30-1-5(c) of this code, and the disposition, if any; and

(8) Copies of the agendas for, and minutes of, board and committee or subcommittee meetings.

The report shall be certified by the president and the secretary of the board, and a copy of the report shall be filed with the Secretary of State and with the legislative librarian.

~~(e)~~ (c) To promote public access, the secretary of every board shall ensure that the address and telephone number of the board are included every year in the state government listings of the Charleston area telephone directory. Every board shall ~~regularly evaluate the feasibility of adopting additional methods of providing public access, including, but not limited to, listings in additional telephone directories, toll free telephone numbers, facsimile and computer based communications~~ maintain a website that provides at least the following information:

(1) Name of each board member;

(2) Names of all board staff;

(3) Contact information for each staff member, including office telephone number, office location, and office mailing address;

(4) A secure electronic means of contacting each staff member;

(5) The roster of licensed or registered practitioners;

(6) Copies of approved meeting minutes for meeting held during the preceding year;

(7) A schedule of regular meeting days for each calendar year;
and

(8) Notice of each upcoming board meeting.

§30-1-12a. Prohibition against disclosure of personally identifiable information; exceptions.

(a) Definitions. —

‘Personally identifiable information’ or ‘PII’ means any information that identifies, or can be used to identify, locate, contact, or impersonate a particular individual.

‘Sensitive PII’ means those elements of PII that must receive heightened protection due to legal or policy requirements, including, but not limited to:

- (1) Social Security numbers;
- (2) Credit card numbers;
- (3) Health and medical data;
- (4) Driver’s License numbers; and
- (5) Individual financial account numbers.

(b) A board may not disclose sensitive PII of applicants, licensees, registrants, or other individuals except as necessary to comply with West Virginia or federal law, court order, or subpoena.

(c) Nothing in this section or section 12 of this article shall prohibit a board from providing information related to the qualifications and practice of licensees and registrants on the board’s website, including but not limited to educational and training qualifications, specialties, and practice addresses.

§30-1-13. Roster of licensed or registered practitioners.

The secretary of every board shall prepare and maintain a complete roster of the names ~~and office addresses~~ of all persons licensed, or registered, and practicing in this state the profession or occupation to which such board relates, arranged alphabetically by name. ~~and also by the cities or counties in which their offices are situated.~~ Each board shall make the roster available upon request to any member of the public and shall also place and maintain the roster on its website.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 247, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 258, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 271, Modifying approval process requirements for First Responders Honor Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 298, Relating to non-federally declared emergencies and non-states of emergency; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 302, Relating to Law Enforcement Safety Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 361, Authorizing miscellaneous boards and agencies to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 9. AUTHORIZATION FOR DEPARTMENT OF MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Accountancy.

The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-9-5 of this code, relating to the Board of Accountancy (board rules of professional conduct, 1 CSR 01), is authorized.

§64-9-2. Board of Acupuncture.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-14(f) of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (advertising by licensed acupuncturists, 32 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (standards of practice of acupuncture by licensed acupuncturists, 32 CSR 06), is authorized with the amendment set forth below:

On page 3, by inserting a new section, designated section 6.3. to read as follows:

6.3. Hand washing – The acupuncturist shall vigorously scrub his or her hands with soap and warm water immediately before examining patients or handling acupuncture needles and other instruments and between patients.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 09), is authorized.

§64-9-3. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 18, 2022, authorized under the authority of §19-13-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2022, relating to the Department of Agriculture (West Virginia apiary rule, 61 CSR 02), is authorized with the amendment set forth below:

On page 2, by striking out all of section 3.1. and inserting in lieu thereof a new section 3.1. to read as follows:

3.1. The Commissioner shall furnish an application for registration of bees to all person known to keep bees. The Commissioner shall mail the applications during the month of June to all persons who have registered their bees during the previous year. Upon receipt of a properly executed bee registration application, the Commissioner shall issue a certificate of registration which will be based upon the information provided on the application.

(b) The legislative rule filed in the State Register on May 12, 2022, authorized under the authority of §19-2-10 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (schedule of charges for inspection services: fruit, 61 CSR 08B), is authorized.

(c) The legislative rule filed in the State Register on June 14, 2022, authorized under the authority of §19-12D-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (noxious weeds rule, 61 CSR 14A), is authorized.

(d) The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §19-11E-8(1) of this code,

modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (Grade "A" pasteurized milk, 61 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on November 15, 2021, authorized under the authority of §19-29-4 of this code, modified by the Agriculture Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 26, 2022, relating to the Agriculture Commissioner (inspection of nontraditional, domesticated animals, 61 CSR 23D), is authorized.

(f) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §19-12E-7 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (hemp products, 61 CSR 30), is authorized.

(g) The legislative rule filed in the State Register on June 2, 2022, authorized under the authority of §19-1C-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(h) The legislative rule filed in the State Register on May 18, 2022, authorized under the authority of §11-13DD-5(b) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farm to food bank tax credit, 61 CSR 36), is authorized with the amendments set forth below:

On page 3, after “5.2.c.” by inserting the following: “No more than \$200,000 of tax credits may be allocated to the Department of Agriculture in any fiscal year.”

And,

On page 4, by striking out section 5.3 and inserting in lieu thereof a new section 5.3. to read as follows:

5.3. After review of the receipt form and any supporting documentation, and after ensuring that the limit of \$200,000 of tax credits per fiscal year has not been exceeded, the Department of Agriculture shall determine the amount, if any, of the tax credit due to the farming taxpayer. The amount of the credit is equal to 30 percent of the value of the donated edible agricultural products, but not to exceed \$5,000 during a taxable year.

(i) The legislative rule filed in the State Register on June 24, 2022, authorized under the authority of §19-35-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farmers markets, 61 CSR 38), is authorized with the amendment set forth below:

On page 6, by striking out subdivision 6.2.h. and inserting in lieu thereof a new subdivision 6.2.h. to read as follows:

6.2.h. Any potentially hazardous freeze-dried foods.

§64-9-4. Athletic Commission.

(a) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §29-5A-3a of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-5. State Auditor.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §12-3-13b of this code, relating to the State Auditor (standards for voluntary payroll deductions, 155 CSR 03), is authorized.

§64-9-6. Conservation Agency.

(a) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4a of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (operation of West Virginia State Conservation Committee and conservation districts, 63 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4 of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (conservation district accounting and auditing standards, 63 CSR 04), is authorized.

§64-9-7. Board of Dentistry.

The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Dentistry (dental recovery networks, 5 CSR 15), is authorized.

§64-9-8. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements, 6 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (crematory requirements, 6 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07), is authorized.

§64-9-9. Board of Landscape Architects.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Board of Landscape Architects (registration of landscape architects, 9 CSR 01), is authorized.

§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3-7(a) of this code,

relating to the Board of Medicine (licensing of physicians and podiatric physicians and disciplinary procedures for applicants, licensees, credential holders, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Medicine (licensure, practice requirements, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7(c) of this code, relating to the Board of Medicine (collaborative pharmacy practice, 11 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §30-3-14 of this code, relating to the Board of Medicine (prohibiting sexual misconduct by health care practitioners, 11 CSR 16), is authorized with the amendment set forth below:

On page 5, subdivision 9.1.2., after the period, by striking proviso in its entirety.

§64-9-11. Board of Optometry.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-1-26 of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Optometry (optometric telehealth practice, 14 CSR 12), is authorized with amendment set forth below:

On page 4, by striking out all of section 5.1. and inserting in lieu thereof a new section 5.1. to read as follows:

5.1. Nothing in this section shall be construed to invalidate §30-8A-3 or to permit use of any automated refractor or other automated or remote testing device to generate refractive data.

§64-9-12. Board of Osteopathic Medicine.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-13. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized with the amendments set forth below:

On page 10, subsection 4.3, after the word “to” by inserting the words “six”;

And,

On page 40, by striking out the entirety of subdivision 24.1.b. and inserting in lieu there of a new subdivision 24.1.b. to read as follows:

24.1.b. for drug regimen review of prescription orders for a patient in an institutional facility, for the pharmacist to authorize the dispensing and administration, provided the pharmacist is licensed to practice pharmacist care in West Virginia.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Uniform Controlled Substance Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code,

modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (registration of pharmacy technicians, 15 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (pharmacy permits, 15 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on April 4, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (inspections, 15 CSR 19), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60B-1-8 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Donated Drug Repository Program, 15 CSR 20), is authorized.

§64-9-14. Psychologists.

The legislative rule filed in the State Register on September 7, 2022, authorized under the authority of §30-21-6 of this code, relating to the Board of Examiners of Psychologists (code of conduct, 17 CSR 06), is authorized.

§64-9-15. Board of Registered Professional Nurses.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses

(requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (advanced practice registered nurse licensure requirements, 19 CSR 07), is authorized with the amendment set forth below:

On page 7, by inserting a new subsection 10.2., to read as follows:

10.2. In case of national recertification, any licensure suspension shall immediately be removed, and no further discipline may occur, if information is provided indicating that recertification has not lapsed.

(c) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-15a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (continuing education and competence, 19 CSR 11), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet

the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (fees for services rendered by the board, 19 CSR 12), is authorized with the amendments set forth below:

On page 1, subsection 2.4., by striking out the number “30.00” and inserting in lieu thereof the number “20.00”;

On page 2, subsection 2.8., by striking out the number “35.00” and inserting in lieu thereof the number “25.00”;

And,

On page 2, by striking out subsection 2.20. and renumbering the remaining subsections.

(f) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §60A-9-5a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (practitioner requirements for accessing the West Virginia Controlled Substance Monitoring Program database, 19 CSR 14), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-1-26 of this code, relating to the Board of Registered Professional Nurses (telehealth practice; requirements; definitions, 19 CSR 16), is authorized.

§64-9-16. Secretary of State.

(a) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-3-2a of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (early voting in-person satellite precincts, 153 CSR 13), is authorized.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(c) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-1A-9 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (administrative procedures for the Nonpublic Funding for Election Administration Fund, 153 CSR 54), is authorized.

§64-9-17. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §36-8-28 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (enforcement of the Uniform Unclaimed Property Act, 112 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on April 21, 2022, authorized under the authority of §18-31-9 of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2023, relating to the Treasurer's Office (Hope Scholarship Program, 112 CSR 18), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §18-30A-16 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (Jumpstart Savings Program, 112 CSR 20), is authorized.

Whereupon,

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

Com. Sub. for S. B. 409, Authorizing Department of Commerce to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 422, Requiring public schools to publish curriculum online at beginning of each new school year; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Education, on page 1, after the enacting clause, by striking out the rest of the committee substitute and inserting, in lieu thereof, the following:

“ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-27. Requirement to publish curriculum online; Parental parental right to inspect instructional materials; listing books on syllabus; right to file complaint.

(a) Each public school shall ensure that the adopted, up-to-date, county-adopted class curriculum is posted on the school’s internet website at the beginning of each school year or no later than 30 business days after new or revised curriculum is adopted: *Provided*, That only students, parents, or guardians of the students shall be provided the login information to gain access to the online curriculum.

(1) For purposes of this section, class curriculum shall include curriculum created pursuant to §18-5A-6 of this code.

(2) The county board of education may provide access, or authorize access, to the county-adopted class curriculum.

(3) If the public school has no accessible website, the information shall be posted on the website of the appropriate county board of education, or website authorized by the state board of education.

~~(a)~~ (b) Each classroom teacher shall comply with the request of any parent, custodian, or guardian to inspect additional instructional materials adopted by the county board pursuant to §18-2A-10 of this code, supplementary instructional materials that were not adopted by the county board pursuant to §18-2A-10 of this code, and books in the classroom that are available for students to read, subject to the following:

(1) Only the parent, custodian, or guardian of a child enrolled in the class may make a request pursuant to this subsection;

(2) The classroom teacher may require that the parent, custodian, or guardian schedule an appointment in order to inspect the instructional materials. If the classroom teacher requires an appointment pursuant to this subdivision, the teacher shall schedule the appointment within 10 business days of the request of the parent, custodian, or guardian; and

(3) As part of the inspection and upon request of the parent, custodian, or guardian, the classroom teacher shall demonstrate how the instructional material relates to the content standards adopted by the state board.

~~(b)~~ (c) For any class in which reading a book or books will be required, the classroom teacher shall include the book or books on a class syllabus. The classroom teacher shall make the syllabus available to any parent, custodian, or guardian of a child enrolled in the class upon request.

~~(e)~~ (d) Any parent, custodian, or guardian may file a complaint with the county superintendent, on a form developed and provided by the county superintendent, if the classroom teacher fails to comply with any provision of this section. If the complaint is not resolved by the county superintendent within seven business days, the parent, custodian, or guardian may file a complaint with the

State Superintendent or his or her designee. The State Superintendent shall make a form available for parents to file a complaint pursuant to this subsection.

~~(d)~~ (e) By September 1 of each year, each county superintendent shall report to the State Superintendent the number of complaints filed with him or her the previous school year. The State Superintendent, annually by October 1, shall report to the Legislative Oversight Commission on Education Accountability the number of complaints filed during the previous school year. The report shall include the number of complaints filed statewide and by county.

~~(e)~~ (f) For purposes of this section, "parent" means a parent who has some allocation of physical custody of the child or who has some share of joint decision-making authority for the child. For purposes of this section, "custodian" means a person who has some allocation of physical custody of the child or who has provided to the school written permission of a parent to have access to the information contemplated by this section. For purposes of this section, "guardian" means a person other than a parent or custodian who, pursuant to a court order, acts in loco parentis for the child."

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

The yeas and nays having been ordered, they were taken (**Roll No. 616**), and there were—yeas 70, nays 20, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Dillon, Dittman, Ferrell, Fluharty, Foggin, Garcia, Griffith, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Reynolds, Rowe, Shamblin, Skaff, Storch, Vance, Walker and Williams.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Pinson, Ross, Steele, Ward and Young.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6B. CYBER SECURITY PROGRAM.

§5A-6B-4a. High-risk platforms, services, applications, programs, and products.

(a) The Legislature hereby finds and declares that it is in the best interest of the citizens of West Virginia and to national security to enact measures designed to safeguard against untrustworthy and high-risk technology and to block such technology from interfering with or damaging critical state networks and infrastructure, including election systems. The use of certain information and communication technologies and services can create opportunities for hostile actors to exploit vulnerabilities and take adverse action against the United States or allies, which could directly or indirectly affect the safety and security of West Virginia citizens, and such use also creates opportunities for adversaries to exploit vulnerabilities and take adverse action against state or local government networks and infrastructure within or connected to West Virginia. As the threat landscape evolves, West Virginia shall work in cooperation with the federal government to implement appropriate safeguards to defend government networks in West Virginia and in the United States from foreign technology threats.

(b) Notwithstanding the provision of §5A-6B-1(b) of this code, all state agencies, including without limitation agencies within the executive branch, all constitutional officers, local government entities as defined by §7-1-1 or §8-1-2 of this code, county boards of education as defined by §18-1-1 of this code, and all state institutions of higher education as defined by §18B-1-2 of this code, shall enforce statewide standards developed by the Chief

Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products. Additionally, all government entities subject to this subsection must, consistent with those standards and any other applicable state or federal law, restrict, remove, ban or otherwise block access to high-risk technology platforms, services, applications, programs, or products on all government systems, services, networks, devices, or locations. For purposes of this subsection, high-risk technology platforms, services, applications, programs, or products are those designated as such in the Statewide Cybersecurity Standard published and maintained by the Chief Information Security Officer: *Provided*, That any standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products shall contain exceptions permitting, in appropriate circumstances, the use of those platforms, services, applications, programs, or products for law enforcement activities, national security interests and activities, security research, investigative efforts authorized by this code, and for other purposes related to actual or potential litigation involving the state or one of its agencies or officers: *Provided, however*, that the Chief Information Security Officer shall develop standards and requirements designed to mitigate the risk of any such authorized use of a high-risk platform, service, application, program, or product pursuant to the exceptions set forth in this section: *Provided, further* that law enforcement agencies of the state are hereby exempt from the provisions of this section if such use of high-risk technology platforms, services, applications, programs, or products is necessary in the performance of their duties.

(c) Agencies within the legislative and judicial branches are recommended to consult these statewide standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products as part of their best management practices.

(d) The Secretary of the Department of Administration may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may also

promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code when necessary to facilitate

(1) completion of the duties imposed on the Chief Information Security Officer by this section, and

(2) enforcement of the standards referenced in this section.

(e) The Chief Information Security Officer will provide an annual report by June 1 of each year on threats posed by untrustworthy and high-risk platforms, services, applications, programs, or products, and the actions required to mitigate those threats to the Joint Interim Committee on Government Operations.

The bill was then ordered to third reading.

S. B. 443, Directing payment of estate administration fee to State Auditor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 444, Transferring moneys in WV Future Fund to General Revenue Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 446, Removing methanol and methanol fuel from definition of special fuel; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 461, Relating to WV public employees grievance procedure; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page 4, section 2, lines 52-53 by striking the entirety of lines 52 and 53 and renumbering thereafter;

And,

On page 5, section 3, line 2 by striking “notarize”; and, on page 5, section 3, line 4 by striking “and notarized”; and, on page 5, section 3, line 7 by striking “and notarize”;

And,

On page 15, section 6, line 7 by inserting,

“Provided, That the provisions of this subsection shall only allow the discretionary recovery of court costs and reasonable attorney’s fees from a grievant if he or she has not substantially prevailed at any level of the grievance process or in any appeal to the Intermediate Court of Appeals or the Supreme Court of Appeals of West Virginia.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 469, Providing funding for CPR instruction to high school students; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 495, Providing correctional institutions and juvenile facilities video and audio records be confidential; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking everything after the enacting clause and in inserting in lieu thereof the following:

“ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-8a. Facility video and security records confidential; exceptions.

~~(a) The contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to the commissioner’s agents, representatives, and designees, but such records are otherwise confidential and not subject to public disclosure or release except as set forth in this section.~~

~~(b) Notwithstanding any provision of this code to the contrary, the contents of any correctional or juvenile facility video, incident~~

~~report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to an appropriate law enforcement agency, when disclosure or release is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution: *Provided*, That, with respect to records relating to juvenile residents, the law enforcement agency in receipt of any such records shall treat the records as confidential pursuant to the provisions set forth in §49-5-101(a) of this code.~~

~~(e) Disclosure or release may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal with the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed or released records: *Provided*, That the disclosure or release of records from a juvenile facility required for an employee grievance shall be made strictly in accordance with the provisions of §49-5-101 of this code.~~

~~(d) The commissioner may authorize an attorney, licensed before the bar of this state and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division, but such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to institution of a suit or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.~~

~~(e) The confidentiality provisions of this section shall extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record~~

(a) The contents of all records necessary for the safe and secure management of inmates and residents committed to state

correctional and juvenile facilities are confidential and may only be disclosed or released:

(1) Pursuant to this section;

(2) As required by the provisions of §29B-1-1 *et seq.* of this code;

(3) In accordance with the discovery provisions of the West Virginia Rules of Civil Procedure or the West Virginia Rules of Criminal Procedure; or

(4) In accordance with the provisions of §49-5-101 of this code.

(b) As used in this section, "records necessary for the safe and secure management of inmates and residents" means:

(1) Video and audio recordings produced in a correctional or juvenile facility;

(2) Incident reports and attachments thereto;

(3) Investigation reports and any attachments thereto, including, but not limited to, witness statements; and

(4) Any document or recording generated within a facility containing information which would reasonably place the safety of an employee, inmate, or resident in jeopardy.

(c) Records protected pursuant to the provisions of this section may be disclosed:

(1) To the Secretary of the Department of Homeland Security, his or her designees, and the commissioner or his or her designees for official use;

(2) To law enforcement when release is determined by the commissioner or his or her designees to be necessary for the investigation, prevention, or prosecution of a crime or crimes;

(3) To the Juvenile Justice Commission and its designees acting in the course of their official duties; and

(4) Pursuant to a lawful order of a court of record or an administrative tribunal for use in a civil, criminal, or administrative matter: *Provided*, That the order shall contain a provision limiting disclosure or publication of the records to purposes necessary to the proceeding and prohibiting its unauthorized use and reproduction.

(5) The commissioner shall authorize an attorney, licensed to practice law in this state and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division: *Provided*, That such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to institution of a suit or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.

(d) The commissioner shall authorize an attorney, licensed to practice in this state and who is representing a person related by consanguinity or affinity to an inmate or resident who has suffered an alleged injury or death while in the custody of the division to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents under the conditions set forth in subdivision (5), subsection (c) of this section.

(e) The confidentiality provisions of this section extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record or administrative tribunal.”

The bill was then ordered to third reading.

S. B. 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 516, Relating to requirements for disclosure of donor contributions; on second reading, coming up in regular order, was read a second time.

Delegates Hansen, Fluharty, and Garcia move to amend the bill on page 11, section 2, line 21, after the word “date”, by striking out the remainder of the sentence on lines 21 and 22 and inserting in lieu thereof a semi-colon and the following proviso:

“Provided, That any contribution placed into a separate segregated account that is not used for campaign-related expenditures, any money received in the ordinary course of any trade or business, or any contribution that is explicitly made for a nonpolitical purpose is not required to be reported.”

And,

On page 15, section 2b, line 25, after the word “date” by striking out the remainder of the sentence on lines 25 through 27 and inserting in lieu thereof a semi-colon and the following:

“Provided, That any contribution placed into a separate segregated account that is not used for campaign-related expenditures, any money received in the ordinary course of any trade or business, or any contribution that is explicitly made for a nonpolitical purpose is not required to be reported.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 617**), and there were—yeas 12, nays 79, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kirby, Longanacre, E. Pritt, Pushkin, Skaff, Walker and Williams.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Ross, Rowe, Ward and Young.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 522, Allocating percentage of county excise taxes for funding improvements to election administration; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax; county clerk funding for election administration, infrastructure, and security, and other county clerk purposes.

(a) Every person who delivers, accepts, or presents for recording any document, or in whose behalf any document is delivered, accepted, or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, ~~a state an~~ excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code: *Provided*, That beginning July 1, 2021, ten percent of each ~~state~~ excise tax collected pursuant to the provisions of this subsection shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, however*, That beginning July 1, ~~in every year thereafter, an additional 10 percent of each state excise tax collected pursuant to this subsection shall be retained by the county wherein the tax was collected to be used for county purposes~~ 2022, twenty percent of each excise tax collected

pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, further,* That beginning July 1, 2023, thirty percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: *And provided further,* That beginning July 1, 2024, sixty-five percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: ~~*Provided*~~ *And provided, further,* That beginning July 1, 2030 2025, the excise tax collected pursuant to this subsection shall be a county excise tax retained by the county wherein the tax was collected and to be used by the county ~~wherein it is collected~~ as provided in subsection (c) of this section for county purposes. The ~~state~~ excise tax collected pursuant to this subsection is payable at the time of delivery, acceptance, or presenting for recording of the document. In addition to the ~~state~~ excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from other funds of the West Virginia Housing Development Fund and shall be accounted for separately. None of these moneys may be expended by the West Virginia Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the West Virginia Housing Development Fund. The West Virginia Housing Development Fund shall publish monthly on ~~the~~ its Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including ~~the group~~ any person or entity receiving funds, ~~their~~ its location, and any contractor awarded ~~the~~ a construction contract.

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value or fraction

thereof as represented by such document as defined in §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document, as defined in §11-22-1 of this code: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than 30 days nor more than 60 days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

(c)(1) Beginning July 1, 2023, and ending June 30, 2024, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Twenty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure,

and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

(2) Beginning July 1, 2024, and ending June 30, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Thirty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Seventeen and one-half percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Seventeen and one-half percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

(3) Beginning July 1, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Ninety percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

(4) The Secretary of State propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish minimum standards for election administration, infrastructure, and security, which rules shall include, but not be limited to, standards regarding cyber and physical security, and a minimum reserve funding requirement for each county from funds transferred to the separate fund required by this subsection for election administration, infrastructure, and security: *Provided*, That the minimum reserve funding requirement may not exceed the cost of upgrading voting equipment at the statewide average price to upgrade a voting system by precinct. Upon a determination by the Secretary of State that a county has satisfied the minimum reserve funding requirement and standards, the moneys in excess of the minimum reserve funding requirement may be transferred to the county's general fund at the county commission's direction.

(5) Any moneys that are deposited into two separate funds for use in improving election administration, infrastructure, and security, and other purposes relating to the office of the clerk of the county commission, shall be in addition to and separate from typical county budget allocations and shall not be supplanted by a budget reduction to the clerk of the county commission's office: *Provided*, That reasonable budget reductions are permitted if made in the ordinary course for reasons other than offsetting the additional funding as provided in this section."

The bill was then ordered to third reading.

Com. Sub. for S. B. 523, Clarifying purpose and use of Economic Development Project Fund; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 527, Allowing family members of military personnel access to discharge records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, on page 1, section 1, line 17, by inserting "and shall be limited to recyclable goods not collected by a certificated solid waste "motor carrier" as defined in chapter twenty-four-a of this code" after the word "association".

On motion of Delegate Young, the amendment was amended, on page 1, line 2, following the words "line 17" by striking out the remainder of the amendment and inserting in lieu thereof the following:

"after the words 'recycling association' by inserting the following: "and shall be limited to recyclable goods not collected by a certified waste 'motor carrier' as defined pursuant to §24A-1-2 of this code in the same area the recycling cooperative is located. If a motor carrier receives a certificate of need to serve the same area with the same services as the cooperative, then the cooperative shall cease providing those services."

The Committee on Government Organization amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements; on second reading, coming up in regular order, was read a second time.

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

S. B. 544, Increasing power purchase agreement cap; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

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

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

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

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

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

(4) Sleeping car or parlor car services;

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

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

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

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

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

(iii) There shall be individual customer on-site generator limits of designing the photovoltaic energy facility to meet only the electrical needs of the premises of the retail electric customer and which in no case shall exceed ~~25~~ 50 kW for residential customers, ~~500~~ 1,000 kW for commercial customers, and 2,000 kW for industrial customers;

(iv) Customers who enter into PPAs relating to photovoltaic facilities are to notify the utility of its intent to enter into a transaction. In response, the utility shall notify within 30 days if any of the caps have been reached. If the utility does not respond

within 30 days, the generator may proceed and the caps will be presumed not to have been reached; and

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

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

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

(10) Toll bridges located more than five miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries; solid waste facilities; and

(11) Any other public service.

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

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

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

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

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

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

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

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints: *Provided*, That any formal complaint filed under this section that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission complained of and the commission shall resolve the complaint

within 180 days of filing. The 180-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the matter complained of is filed by the political subdivision: *Provided, however*, That whenever the commission finds any regulations, measurements, practices, acts, or service to be unjust, unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of this chapter, or finds that any service is inadequate, or that any service which is demanded cannot be reasonably obtained, the commission shall determine and declare, and by order fix reasonable measurement, regulations, acts, practices or services, to be furnished, imposed, observed, and followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory, inadequate, or otherwise in violation of this chapter, and shall make an order that is just and reasonable: *Provided further*, That if the matter complained of would affect rates, fees, and charges fixed by the political subdivision providing separate or combined water and/or sewer services, the rates, fees, or charges shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future.

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

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

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

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

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

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

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

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

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be designated prior to commercial operation of the facility, for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to

§24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

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

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

issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

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

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code, to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order as of that date.

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

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

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

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

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

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

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

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

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

Delegate Burkhammer moved to amend the amendment on page 1, section 1, line 20, by striking out the words "a solar photovoltaic" and inserting in lieu thereof "an"

And,

On page 2, section 1, line 29, by striking out the word “photovoltaic”.

And,

On page 2, section 1, line 32, by striking out the word “photovoltaic” and inserting in lieu thereof “energy”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 618**), and there were—yeas 25, nays 68, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Devault, Dillon, Ellington, Fast, Fehrenbacher, Foster, A. Hall, Hillenbrand, Horst, Longanacre, Martin, Petitto, Pinson, Ridenour, Rowe, Statler, Street and Vance.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, C. Pritt and Ross.

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

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 546, Adding and removing certain compounds from controlled substance list; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page 6, section 204, by striking out line 134 in its entirety.

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

The yeas and nays having been ordered, they were taken (**Roll No. 619**), and there were—yeas 16, nays 76, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Fluharty, Foggin, Garcia, Hansen, Hornbuckle, Kirby, C. Pritt, E. Pritt, Pushkin, Rowe, Skaff, Smith, Walker, Williams and Young.

Absent and Not Voting: Bridges, Cooper, A. Hall, Mallow, McGeehan, Nestor, Ross and Shamblin.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 561, Relating to administration of WV Drinking Water Treatment Revolving Fund Act; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 7, by striking section 7 in its entirety and renumbering the following section accordingly.

The bill was then ordered to third reading.

Com. Sub. for S. B. 568, Relating to Dangerousness Assessment Advisory Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 573, Relating to child support guidelines and Support Enforcement Commission; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 579, Providing payment to vendors who provided services to state; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 608, Correcting list of items which are considered deadly weapons; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

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

(1) ‘Antique firearm’ means:

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

(B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

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

any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

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

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

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

(5) 'Deadly weapon' means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term 'deadly weapon' includes, but is not limited to, the instruments defined in subdivisions (1) ~~through (8)~~, (2), (5), (7), (8), (9), (10), (11), (12), (13), (14), and (15), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of 'knife' set forth in subdivision (9) of this subsection, the term 'deadly weapon' also includes any instrument included within the definition of 'knife' with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term 'deadly weapon' includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term 'deadly weapon' does not include any item or material owned by the school or county board, intended for

curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term 'deadly weapon' does not include pepper spray as defined in subdivision (12) of this subsection when used by any person ~~over the age of 16~~ solely for self-defense purposes.

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

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

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

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

(10) 'Metallic or false knuckles' means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms 'metallic or false knuckles' includes any such instrument

without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

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

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

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

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

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 5W. REGULATION OF BEHAVIORAL HEALTH.

§16-5W-1. Definitions.

The following terms are defined for this article:

‘Abuse’ means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial wellbeing. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain, or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse, including abuse facilitated or enabled through the use of technology. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.

‘Addiction’ means a disease characterized by the individual's pursuing reward, relief, or both, by substance use or other behaviors. Addiction is characterized by impairment in behavioral control, craving, inability to consistently abstain, and diminished recognition of significant problems with one's behaviors and interpersonal relationships; likely to involve cycles of relapse and remission.

‘Advocate’ means a person or entity who has the authority via contract with the department or authority via state or federal statutory authority or court ruling to monitor and redress the care and treatment of persons with developmental, behavioral, and/or intellectual disabilities at behavioral health centers.

‘Behavioral Health Center’ means a provider, entity, or facility that provides behavioral health services, supports, or both.

‘Behavioral disability’ means a disability of a person which: (1) Is attributable to severe or persistent mental illness, emotional disorder or chemical dependency; and (2) results in substantial

functional limitations in self-direction, capacity for independent living or economic self-sufficiency.

‘Behavioral Health Services’ means a direct service provided as an inpatient, residential or outpatient service to an individual with mental health, addictive, behavioral, or adaptive challenges that is intended to improve or maintain functioning in the community. The service is designed to provide treatment, habilitation, or rehabilitation.

‘Developmental disability’ means a chronic disability of a person which: (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (2) is likely to continue indefinitely; (3) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency; and (4) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

‘Group residential facility’ means a facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the department; and (4) complies with the state Fire Commission for residential facilities.

‘Group residential home’ means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in this article.

‘Intermediate care facility’ means a setting for individuals with intellectual disabilities or distinct part of that:

(1) Is primarily for the diagnosis, treatment, or rehabilitation of the intellectually disabled or persons with related conditions; and

(2) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his greatest ability.

‘Neglect’ means the failure of the facility, its employees, or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.

‘Office of Health Facility Licensure and Certification’ or ‘OHFLAC’ means the West Virginia Office of Health Facility Licensure & Certification.

‘Protection and advocacy system’ or ‘P&A’ means the agency designated to serve as the protection and advocacy system for the State of West Virginia as provided in 29 U.S.C. § 794e, 42 U.S.C. § 15041 *et seq.*, and 42 U.S.C. § 10801 *et seq.*, that has the express federal statutory authority to receive information regarding and to investigate complaints involving suspected abuse and neglect.

‘Specialized intermediate care facility’ means a Centers for Medicare and Medicaid Services approved transitional setting that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility. A facility may not be located within one mile of a residential area, a public or private licensed day care center, or a public or private K-12 school.

‘Supportive Service’ means a service provided exclusively to individuals with intellectual disabilities, developmental disabilities, ongoing mental health or addictive challenged, or traumatic brain injury. This service is designed to assist the individual to live in the community in a manner that is socially inclusive, optimally independent, and self-directed while preserving his or her health, safety, and quality of life. These

services are not designed to change behavior or emotional functioning to support the individual in his or her community-based settings. Supportive services may include coaching or prompting of age appropriate living skills.

§16-5W-2. Regulation of Behavioral Health Centers – Residential Settings.

A behavioral health center, may not provide residential behavioral health services unless a license is first obtained from the Office of Health Facility Licensure and Certification. The Inspector General shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.*, in regard to the operation of behavioral health centers – residential settings. The Inspector General, or any person authorized by the Inspector General, has authority to investigate and inspect any licensed behavioral health center – residential setting. The Inspector General may impose a civil money penalty, or limit, deny, suspend, or revoke the license of any center for good cause after reasonable notice, including due process rights as provided in legislative rule. The Inspector General shall promulgate a rule to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities including, but not limited to, the process to be followed by applicants seeking a license; provision of treatment; development of treatment plans and discharge plans; management, operation, staffing and equipping of these facilities; clinical, medical, patient, and business records kept by these facilities; procedures for inspections and for review of utilization and quality of patient care; standards and procedures for the general operation of these facilities including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance; and such other standards or requirements as the Inspector General determines are appropriate.

§16-5W-3. Regulation of Behavioral Health Centers – NonResidential Settings.

A behavioral health center, may not provide community based, nonresidential behavioral health services unless a license is first obtained from the Office of Health Facility Licensure and

Certification. The director shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.*, in regard to the operation of behavioral health centers – nonresidential settings. The Inspector General, or a person authorized by the Inspector General, has authority to investigate and inspect any licensed behavioral health center – nonresidential setting. The Inspector General may impose a civil money penalty, or limit, deny, suspend, or revoke the license of any center for good cause after reasonable notice, including due process rights as provided in legislative rule. The Inspector General shall a rule to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities including, but not limited to, the process to be followed by applicants seeking a license and licensure fees and types; provision of treatment; development of treatment plans and discharge plans; management, operation, staffing and equipping of these facilities; clinical, medical, patient, and business records kept by these facilities; procedures for inspections and for review of utilization and quality of patient care; standards and procedures for the general operation of these facilities including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance; and such other standards or requirements as the Inspector General determines are appropriate.

§16-5W-4. Inspection; inspection warrant; penalty.

(a) The Office of Health Facility Licensure and Certification shall inspect each behavioral health center – residential setting annually, and as necessary, including a review of patient records, to ensure that the facility complies with this article and the applicable rules.

(b) The Office of Health Facility Licensure and Certification shall inspect each behavioral health center – nonresidential setting every two years, and as necessary, including a review of the patient records, to ensure that the facility complies with this article and applicable rules.

(c) The Office of Health Facility Licensure and Certification shall perform unannounced complaint and verification inspections

at behavioral health centers – residential settings and behavioral health centers – nonresidential settings.

(d) The Office of Health Facility Licensure and Certification may assess a fine on residential or nonresidential settings up to \$100,000 and/or reduce bed capacity, as that term is defined in §16-2D-2. The provisions of the subsection shall be included in legislative rule by the director, in accordance with §29A-3-1, including when such fines or bed capacity reduction would be issued.

(e) Notwithstanding the existence or pursuit of any other remedy, the Inspector General may, in the manner provided by law, maintain an action in the name of the state for an inspection warrant against any person, partnership, association, or corporation to allow any inspection or seizure of records in order to complete any inspection allowed by this article or the rules promulgated pursuant to this article.

§16-5W-5. Access to Consumers.

(a) An individual for whom the state is the guardian shall receive a visit by his or her assigned caseworker by the agency at least once a month. Case workers and advocates shall have unlimited access to consumers. The P&A shall have access to consumers, case workers, records, and complaints in accordance with federal law.

(b) The mental health, long-term care and foster care ombudsman may investigate and resolve complaints filed on behalf of individuals with IDD in any setting.

§16-5W-6. Reporting.

(a) The Office of the Inspector General shall send to county prosecutors any findings that may be subject to criminal prosecution in cases of abuse and neglect with IDD. The Office of the Inspector General shall send to the P&A the findings of any cases involving instances of substantiated abuse or neglect involving a person with a developmental disability.

(b) An annual report shall be submitted to the Legislative Oversight Commission on Health and Human Resources Accountability including:

(1) All instances where abuse and neglect cases involving IDD at any location has been substantiated by the Office of the Inspector General.

(2) The county or region where the substantiated abuse or neglect occurred;

(2) The descriptive category of the abuse and neglect;

(3) The type of setting where the abuse and neglect occurred;

(4) Whether the abuse and neglect information was turned over to the county prosecutor and law enforcement;

(5) The name of the provider, if the provider is involved, who is charged with the care of the individual; and

(6) The age range and gender of the individual.

(c) In instances where abuse and/or neglect leads to the death of an individual, the department shall send a letter, within 30 days after the findings where substantiated, to the Senate President, the Speaker of the House, and the chairs of LOCHHRA outlining the information above about the case.

§16-5W-7. Independent Mental Health Ombudsman.

(a) (1) The Office of the Inspector General shall continue an independent mental health ombudsman;

(2) The duties of the mental health ombudsman shall include, but are not limited to, the following:

(A) Advocating for the well-being, treatment, safety, and rights of consumers of mental health care facilities or psychiatric hospital;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a consumer of a mental health care facility or psychiatric hospital, relating to action, inaction, or decisions of providers of mental and behavioral health, of public agencies, or social service agencies, which may adversely affect the health, safety, welfare, and rights of a consumer of a mental health care facility or psychiatric hospital; and

(C) Monitoring the development and implementation of federal, state, and local legislation, regulations, and policies with respect to mental and behavioral health care and services;

(3) The mental health ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities;

(4)(A) Information relating to any investigation of a complaint that contains the identity of the complainant or consumer shall remain confidential except:

(i) Where imminent risk of serious harm is communicated directly to the mental health ombudsman or his or her staff; or

(ii) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both;

(B) The mental health ombudsman shall maintain confidentiality with respect to all matters including the identities of complainants, witnesses, or others from whom information is acquired, except insofar as disclosures may be necessary to enable the mental health care ombudsman to carry out duties of the office or to support recommendations;

(C) All information, records, and reports received by or developed by the mental health ombudsman program which relate to a consumer of a mental health care facility or psychiatric hospital, including written material identifying a consumer are confidential, and are not subject to the provisions of §29-1-1, et seq. of this code, and may not be disclosed or released by the

mental health ombudsman program, except under the circumstances enumerated in this section;

(D) Nothing in this section prohibits the preparation and submission by the mental health ombudsman of statistical data and reports, as required to implement the provisions of this section or any applicable federal law, exclusive of any material that identifies any consumer or complainant; and

(E) The Inspector General shall have access to the records and files of the mental health ombudsman program to verify its effectiveness and quality.

§16-5W-8. Intellectual and Developmental Disabilities Waiver Program workforce study.

(a) By July 1, 2023, the Legislative Oversight Commission on Health and Human Resources Accountability shall conduct a workforce study pertaining to the Intellectual and Developmental Disabilities Waiver Program (IDDW Program). The study shall use data and statistics generally relied upon by reasonably prudent individuals, and shall determine/address the following:

(1) The categories of personnel offering services as part of the IDDW Program;

(2) The mean hourly pay rate for each such category of personnel, broken down by West Virginia County where service is provided to patients;

(3) The mean hourly pay rate for each such category of personnel offering services as part of programs equivalent to the IDDW Program in surrounding states.

(4) A comparison of the hourly pay rates identified in subdivisions 2 and 3 of this section, broken down by category of personnel; and

(5) Any other factor the commission reasonably deems relevant to the issues.

(b) Within the report the commission shall make recommendations as to the appropriateness of the current mean hourly pay rate for each category of IDDW Program personnel, as well as any potential pay rate increases necessary to ensure that the IDDW Programs can successfully recruit and retain qualified personnel.

(c) The commission shall issue the report by January 1, 2024.

§16-5W-9. Annual capitation rate review.

(a) The Bureau of Medicaid Services shall conduct an annual study reviewing the adequacy and appropriateness of the reimbursement rates to providers in the IDDW Program. The bureau shall also include a recommendation for any adjustment deemed appropriate, including, but not limited to, annual inflationary costs, costs arising from amendments to existing contracts, costs relating to recruiting and retaining personnel, and any other costs necessitating additional payments to IDDW providers. The bureau may require, and contracted providers shall provide financial data to the bureau to assist in the study. Without limiting the generality of the foregoing in conducting this study, the bureau shall review and compare equivalent programs both in and out of state in order to determine appropriate rates.

(b) Upon completion of the study, BMS shall provide the report to the Joint Committee of Finance beginning July 1, 2024, and annually thereafter, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 8. ~~MAINTENANCE OF MENTALLY ILL OR MENTALLY RETARDED PATIENTS.~~

§27-8-2b. Local mental health programs — Separate account for receiving and expending gifts, bequests, donations, fees and miscellaneous income.

[Repealed.]

§27-8-3. Care of patients in boarding homes.

[Repealed.]

ARTICLE 9. LICENSING OF HOSPITALS.**§27-9-1. License from Secretary of Health and Human Resources; regulations.**

[Repealed.]

ARTICLE 13. ~~LAWS REPEALED; SEVERABILITY.~~**§27-13-1. Laws repealed.**

[Repealed.]

§27-13-2. Severability.

[Repealed.]

ARTICLE 16. ~~STERILIZATION OF MENTAL DEFECTIVES.~~**ARTICLE 17. GROUP RESIDENTIAL FACILITIES.****§27-17-1. Definitions.**

[Repealed.]

§27-17-2. Permitted use of group residential facilities; restrictions.

[Repealed.]

§27-17-3. License from Secretary of Health and Human Resources; regulations; and penalties.

[Repealed]

§27-17-4. Exclusion by private agreement void.

[Repealed]

The bill was then ordered to third reading.

Com. Sub. for S. B. 631, Updating administration, funding, and requirements for federal elections held in WV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 633, Requiring prompt appearances for persons detained on capiases; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. PRELIMINARY PROCEDURE.

§62-1-7. Offense arising in other county.

~~If the warrant issued, or if the offense is alleged to have been committed, in a county other than the county of arrest, all papers in the proceeding shall be promptly transmitted to a justice of the county having jurisdiction of the offense for preliminary examination or trial. If the defendant is unable to provide bail in the county of arrest, he or she shall be committed to the custody of an officer who shall take him or her without unnecessary delay before a justice of the county wherein the examination or trial is to be held, there to be dealt with as provided by law.~~

In all cases where a person is arrested in a county other than where the indictment or charge is pending, an arraignment shall be held pursuant to the Rules of Criminal Procedure for Magistrate Courts in West Virginia. If the person remains incarcerated after the arraignment, he or she shall be transported to the regional jail serving the charging county within five days of arrest.

ARTICLE 1C. BAIL

62-1C-17b. Procedures for failure to appear; Failure to appear penalties.

(a) Any person, who, having been released upon his or her personal recognizance pursuant to §62-1-1a of this code or having

been otherwise admitted to bail and released in accordance with this article, and who shall willfully and without just cause fail to appear as and when it may be required of him or her, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided.

(b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a felony and, shall thereafter be convicted for a violation of the provisions of subsection (a) of this section, such persons shall be guilty of a felony and, shall be fined not more than \$5,000 or imprisoned not less than one nor more than five years, or both such fine and imprisonment.

(c) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and, shall thereafter be convicted for a violation of the provision of subsection (a) of this section, such persons shall be guilty of a misdemeanor and, shall be fined not more the \$1,000 or confined in the county jail for not more than one year, or both such fine and confinement.

(d) If any such person was admitted to bail or released pending appearance as a material witness and shall thereafter fail to appear when and where it shall have been required of him or her, such persons shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more the \$1,000 or confined in the county jail not more than one year, or both such fine and confinement.

(e) Any penalty authorized by this section shall be in addition to any forfeiture authorized or mandated by this article or by any other provision of law.

(f) If any defendant admitted to bail and released in accordance with this article fails to appear at a scheduled court appearance, the court may issue a capias or bench warrant for failure to appear if it determines that the defendant was provided effective notice of the court appearance by the court;

(g) For the purposes of this subsection, "effective notice of the court appearance" means a notice stating the date, time, location, and purpose of the hearing, transmitted to the defendant or defendant's counsel, no fewer than 10 days prior to the scheduled court appearance. The court may waive the 10 day requirement upon a finding of emergent circumstances.

(h) For purposes of capiases for failure to appear after indictment, newspaper publication alone does not constitute effective notice.

(i) Notwithstanding the provisions of subsections (a) through (d) of this section, where the record does not reflect that the person failing to appear received effective notice to appear from the court or where he or she has no documented history of failure to appear, a court, absent good cause shown, may not issue a capias until no fewer than 24 hours have elapsed since the failure to appear. If the defendant voluntarily appears within 24 hours, he or she is not subject to prosecution under this section.

(j) Nothing in subsection (f) of this section may be construed to limit a court's ability to issue a capias upon credible information of danger to a person or the community, new criminal conduct or a bail violation other than failure to appear.

(k) Upon the arrest of a defendant pursuant to a capias in the county in which the indictment or charge is pending, a hearing pursuant to §62-1C-1a of this code shall be scheduled and held within five days of the arrest.

(l) Upon the appearance in the county in which the indictment or charge is pending of a defendant against whom a capias has been issued the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies, that the warrant or capias is no longer active and order it to be immediately removed from all databases.

ARTICLE 2. PRESENTMENTS AND INDICTMENTS

§62-2-17. Delivery of prisoner to court, magistrate or jailer.

(a) An officer who, under a *capias* from a court, arrests a person accused of an offense other than murder in the first degree shall deliver the accused to such court, if sitting, and if such court is not sitting, the officer shall deliver the accused to a magistrate who may admit the accused to bail: *Provided*, That any such bail granted by a magistrate shall be conditioned upon the appearance by the accused before the court on the date provided in the *capias* for such appearance, or, if no such date is provided in the *capias*, then such bail shall be conditioned upon the appearance of the accused on the next day on which such court is sitting.

(b) No magistrate shall admit to bail any person arrested under an alias *capias*.

(c) Bail set by a magistrate may be made and posted before the magistrate court clerk and the recognizance and record thereof, together with any money received therefor, shall be forthwith delivered to the clerk of the circuit court.

(d) An officer who, under a *capias* from a court, arrests a person accused of an offense not bailable, or for which bail is not given, shall deliver the accused to such court, if sitting, or to the jailer thereof, who shall receive and imprison him or her.

(e) In all cases where a defendant is arrested and held under a *capias* for failure to appear in the county wherein the charge or charges is pending, and he or she is entitled to admission to bail, an initial appearance shall be held as soon as practicable, or within five days whichever is sooner, and bail shall be considered pursuant to §62-1C-1a of this code.

(f) Upon the appearance of a defendant upon an indictment or complaint upon which a warrant or *capias* has been issued, the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies that the warrant or *capias* is no longer active and order that it be immediately removed from all databases.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 647, Relating to substantiation of abuse and neglect allegations; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4. COURT ACTIONS.

PART VI. PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE.

§49-4-601b. Substantiation by the department of abuse and neglect; file purging; expungement; exceptions.

(a) Notwithstanding any provision of this code to the contrary, when the department substantiates an allegation of abuse ~~or~~ and/or neglect against a person, but there is no judicial finding of abuse ~~or~~ and/or neglect as a result of the allegation, the department shall provide written notice of the substantiation to the person by certified mail, return receipt requested.

(b) The ~~individual~~ person against whom an abuse ~~or~~ and/or neglect allegation has been substantiated, as described in subsection (a) of this section, has the right to contest the substantiation by filing a grievance with the board of review of the department and has the right to appeal the decision of the board of review to the court, in accordance with the provisions of §29A-5-1 *et seq.* of this code regarding administrative appeals.

(c) The secretary of the department shall ~~promulgate~~ propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code, within the applicable time limit to be considered by the Legislature during its regular session in the year 2021, which rules shall include, at a minimum:

(1) Provisions for ensuring that an individual against whom the department has substantiated an allegation of abuse ~~and/or~~ neglect, but against whom there is no judicial finding of abuse ~~or~~ and/or neglect, receives written notice of the substantiation in a timely

manner. The written notice ~~must~~, shall at a minimum, state the following:

(A) The name of the child the person is alleged to have abused ~~or~~ and/or neglected, the place or places where the abuse ~~or~~ and/or neglect allegedly occurred, and the date or dates on which the abuse ~~or~~ and/or neglect is alleged to have occurred;

(B) That the person has a right to file a grievance protesting the substantiation of abuse and/or neglect with the board of review of the department and clear instructions regarding how to file a grievance with the board of review, including a description of any applicable time limits;

(C) That the person has a right to appeal an adverse decision of the board of review of the department to the courts and notice of any applicable time limits; and

(D) A description of any public or nonpublic registry on which the person's name will be included as a result of a substantiated allegation of abuse and/or neglect and a statement that the inclusion of the person's name on the registry may prevent the person from holding jobs from which child abusers are disqualified, or from providing foster or kinship care to a child in the future;

(2) Provisions for ensuring that a person against whom an allegation of abuse and/or neglect has been substantiated, but against whom there is no judicial finding of abuse and/or neglect, may file a grievance with the department and provisions guaranteeing that ~~any such person~~ he or she will have a full and fair opportunity to be heard; and

(3) Provisions requiring the department to remove a person's name from an abuse and/or neglect registry maintained by the department if a ~~substantiation~~ substantiated allegation is successfully challenged in the board of review or in a court.

(d) Notwithstanding any provision of this code to the contrary:

(1) Where any allegation of abuse and/or neglect is substantiated and a petition for abuse and/or neglect could be filed

and the department does not file a petition, all department records related to the allegation shall be sealed one year after the substantiation determination, unless during the one-year period another allegation of child abuse and/or neglect against the person is substantiated: *Provided*, That the provisions of this subdivision do not apply to a person against whom an allegation is substantiated but the circumstances do not allow for the filing of a petition for abuse and/or neglect;

(2) Where an allegation of child abuse and/or neglect is substantiated and a petition is filed with the circuit court which does not end in an adjudication that abuse and/or neglect occurred, the allegation shall be considered to have been unsubstantiated.

(3)(A) Where an allegation of child abuse and/or neglect is substantiated and a judicial determination of child abuse and/or neglect is found, a person may petition the circuit court which found the person to be an abusing parent to have his or her department record sealed after no less than five years have elapsed since the finding of abuse and/or neglect is rendered: *Provided*, That a petition may not be filed if the person had been the subject of a substantiated allegation of abuse and/or neglect during the period of time after the finding and prior to the filing of the petition; and

(B) In its consideration of a petition filed under this subdivision, the court, in its discretion, may look at all relevant factors related to the petition, including, but not limited to, efforts at rehabilitation and family reunification.

(e) The sealing of a record pursuant to subsection (d) of this section means that any inquiry of the department about a person having a record of child abuse and/or neglect for purposes of possible employment shall be answered in the negative.

(f) The secretary is directed to propose legislative rules pursuant to §29A-1-1 *et seq.* of this code to effectuate the amendments to this section enacted during the regular session of the Legislature, 2023.

The bill was then ordered to third reading.

Com. Sub. for S. B. 661, Clarifying preferential recall rights for employees sustaining compensable injury; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization was reported by the Clerk.

Whereupon,

Delegate Phillips asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate C. Pritt, the bill was amended on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 5A. DISCRIMINATORY PRACTICES.

§23-5A-3. Termination of injured employees prohibited; reemployment of injured employees.

(a) It shall be a discriminatory practice within the meaning of section one of this article to terminate an injured employee while the injured employee is off work due to a compensable injury within the meaning of §23-4-1 *et seq.* of this code and is receiving or is eligible to receive temporary total disability benefits, unless the injured employee has committed a separate dischargeable offense. A separate dischargeable offense shall mean misconduct by the injured employee wholly unrelated to the injury or the absence from work resulting from the injury. A separate dischargeable offense shall not include absence resulting from the injury or from the inclusion or aggregation of absence due to the injury with any other absence from work.

(b) It shall be a discriminatory practice within the meaning of section one of this article for an employer to fail to reinstate an employee who has sustained a compensable injury to the employee's former position of employment upon demand made in writing and transmitted by the United States Postal Service, return

receipt requested, to the employer's principal office for such reinstatement provided that the position in which the employee sustained the compensable injury is still available and the employee is not disabled from performing the duties of such position. If the former position is not available, the employee shall be reinstated to another comparable position which is available and which the employee is capable of performing. A comparable position for the purposes of this section shall mean a position which is comparable as to wages, working conditions and, to the extent reasonably practicable, duties to the position held at the time of injury. A written statement from a duly licensed physician that the physician approves the injured employee's return to his or her regular employment shall be prima facie evidence that the worker is able to perform such duties. In the event that neither the former position nor a comparable position is available, the employee shall have a right to preferential recall to any job which the injured employee is capable of performing which becomes open after the injured employee notifies the employer that he or she desired reinstatement. Said right of preferential recall shall be in effect for one year from the day the injured employee notifies the employer that he or she desires reinstatement: *Provided*, That the employee provides to the employer a current mailing address during this one-year period.

(c) For the preferential recall rights authorized by this section when an employee is employed by an employer defined by §30-42-3(d) of this code, the employee's right to preferential recall shall be no greater than 120 days from the date the employee is released by a duly licensed physician to return to his or her regular employment. It is the employee's obligation to continually seek the possibility of employment during the employee's preferential recall period under this subsection. The employee's right to preferential recall authorized by this subsection terminates once the employer offers the employee his or her former position or a comparable position.

~~(e)~~(d) Any civil action brought under this section shall be subject to the seniority provisions of a valid and applicable collective bargaining agreement, or arbitrator's decision

thereunder, or to any court or administrative order applying specifically to the injured employee's employer, and shall further be subject to any applicable federal statute or regulation.

~~(d)~~(e) Nothing in this section shall affect the eligibility of the injured employee to workers' compensation benefits under this chapter.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 665, Amending licensure requirements for massage therapist; on second reading, coming up in regular order, was read a second time and ordered to third reading. The bill was then ordered to third reading.

S. B. 674, Providing statutory recognition and appointment of board members for WV First Foundation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 677, Clarifying role and responsibilities of State Resiliency Officer; on second reading, coming up in regular order, was read a second time.

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

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

~~‘Board’ means the West Virginia Disaster Recovery Board created by this article~~

‘Code’ means the Code of West Virginia, 1931, as amended;

‘Community facilities’ means a specific work, or improvement within this state, or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

‘Critical infrastructure’ includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.

‘Disaster’ means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, or terrorist, or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation, or other public calamity requiring emergency action;

‘Disaster ~~recovery~~ response activities’ means activities undertaken prior to, during or immediately following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

‘Emergency services’ means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and ~~recover~~, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other events caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services

and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

‘Essential business activities’ means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

‘Essential workers’ means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness.

‘Local organization for emergency services’ means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

‘Mobile support unit’ means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

‘Person’ means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

‘Political subdivision’ means any county or municipal corporation in this state;

~~‘Recovery fund’ means the West Virginia Disaster Recovery Trust Fund created by this article~~

‘Residential housing’ means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

‘Secretary’ means the Secretary of the West Virginia Department of ~~Military Affairs and Public Safety~~ Homeland Security; and

‘Temporary housing’ means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster, and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-4b. West Virginia Disaster Recovery Trust Fund disbursement.

[Repealed.]

§15-5-4c. Powers and duties related to the West Virginia Disaster Recovery Trust Fund.

[Repealed.]

§15-5-24. Disaster Recovery Trust Fund; disbursement of funds.

[Repealed.]

§15-5-25. Prohibition on funds inuring to the benefit of or being distributable to members, officers or private persons.

[Repealed.]

§15-5-26. Tax exemption.

[Repealed.]

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 31. STATE RESILIENCY AND FLOOD PROTECTION ~~PLAN~~ PLANNING ACT.

§29-31-1. Short title; legislative findings; purpose.

(a) This article may be known and cited as the ‘Resiliency and Flood Protection Planning Act’.

(b) The West Virginia Legislature finds that:

(1) Flooding has affected each of the 55 counties and 32 major watersheds within the state;

(2) Over the past 52 years, more than 282 West Virginians have died in floods;

(3) Between January 1996 and January 2017, there ~~have been~~ were 27 federal disaster declarations in West Virginia involving flooding;

(4) Between January 2010 and December 2021, West Virginia was impacted by more than 1,600 separate flood events;

~~(4)~~ (5) In June 2016, much of West Virginia suffered devastating flooding-; and

~~(5)~~ (6) Despite the many state and federal flood protection programs and projects, flooding continues to be West Virginia’s most common and widespread natural disaster.

(c) It is the purpose of this article to:

(1) provide Provide a comprehensive and coordinated statewide resiliency and flood protection planning program to save lives, and develop community and economic resiliency plans including, but not limited to, reducing or mitigating flood damage while supporting economic growth and protecting the environment; and

(2) Provide for funding mechanisms to implement such state and community plans developed through the program.

§29-31-2. State resiliency office, officer, deputy and board.

(a) It is determined that a state authority is required to provide a coordinated effort and planning for ~~emergency and disaster response~~, recovery, and resiliency between government agencies, first responders, and all other entities to reduce the loss of life and property, lessen the impact of future disasters, ~~respond quickly to save lives~~, protect property and the environment, meet basic human needs, and provide economic growth and resilience prior to and in the aftermath of an incident. Therefore, the State Resiliency Office is hereby created. The office shall be organized within the Office of the Governor. The office will serve as the recipient of disaster recovery and resiliency funds, excluding federal Stafford Act funds, and the coordinating agency of recovery and resiliency efforts, including matching funds for other disaster recovery programs, excluding those funds and efforts under the direct control of the State Resiliency Officer pursuant to ~~§15-5-4 and §15-5-24~~ §29-31-3, §29-31-6, §29-31-7 and §29-31-8 of this code. ~~for a particular event~~

(b)(1) The State Resiliency Office Board is also established and shall consist of the following members: The State Resiliency Officer; the Secretary of the Department of Commerce or his or her designee; the Director of the Division of Natural Resources or his or her designee; the Secretary of the Department of Environmental Protection or his or her designee; the Executive Director of the State Conservation Agency or his or her designee; the President of the West Virginia Emergency Management Council or his or her designee; the Secretary of the Department of Health and Human Resources or his or her designee; the Secretary of the Department of Homeland Security or his or her designee; the Secretary of Transportation or his or her designee; the Adjutant General of the West Virginia National Guard or his or her designee; the Director of the Division of Emergency Management within the Department of Homeland Security or his or her designee; two nonvoting members of the West Virginia Senate, one from each party, to be appointed by the President of the Senate; and two nonvoting

members of the West Virginia House of Delegates, one from each party, to be appointed by the Speaker of the House of Delegates.

(2) A member of the board holds office so long as he or she retains the office or position by virtue of which he or she is serving on the board. A majority of the voting members of the board is a quorum and the concurrence of a board in any matter within their duties is required for its determination. The members of the board may not receive compensation for their services on the committee, but are entitled to reimbursement of expenses, including traveling expenses necessarily incurred in the discharge of their duties on the board.

(3) The board shall:

(A) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, rules, and orders issued or adopted, and of its other official actions;

(B) Shall adopt a seal, which shall be judicially noticed;

(C) Provide for an annual audit of the accounts of receipts and disbursements of the State Resiliency Office; and

(D) Perform those acts necessary for the execution of its functions under this article.

(1) The State Resiliency Officer shall be the chair of the State Resiliency Office Board and shall be appointed by the Governor with the advice and consent of the Senate. The State Resiliency Officer may cast a vote only in the event of a tie vote. The board shall elect from its voting membership a vice chair. The vice chair shall preside over the meetings of the board in the absence of the chair. In the absence of both the chair and the vice chair any member designated by the members present may act as chair.

(2) The State Resiliency Officer shall be vested with the authority and duties prescribed to the office within this article.

(3) The State Resiliency Officer shall be a person who has:

(A) At least five years' managerial or strategic planning experience in matters relating to flood control ~~and~~, hazard mitigation, and disaster resiliency, or alternatively, in disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field; ~~emergency management, or emergency response~~

(B) At least a level IS-800 NIMS certification: *Provided*, That if the State Resiliency Officer does not have a level IS-800 NIMS certification when appointed, he or she shall become so certified within one year following appointment; and

(C) Be thoroughly knowledgeable in matters relating to flood control ~~and~~, hazard mitigation, and disaster resiliency, or alternatively, in matters relating to disaster recovery, emergency management, ~~and emergency response~~ community and economic development, regional planning, economics, or related public policy field.

(4) The State Resiliency Officer shall employ a deputy who shall assist the State Resiliency Officer in carrying out the duties of the office. The State Resiliency Office Board shall meet and submit a list of no more than five nor less than two of the most qualified persons to the Governor within 90 days of the occurrence of a vacancy in this deputy position. This deputy shall be appointed by the Governor with the advice and consent of the Senate. Applicants for the deputy position shall at a minimum:

(A) Have at least three years' managerial or strategic planning experience in matters relating to flood control, hazard mitigation, and disaster resiliency, or alternatively, in disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field; ~~in matters relating to flood control and hazard mitigation or, alternatively, in disaster recovery, emergency management, or emergency response~~;

(B) Have at least a level ~~E/L-950~~ IS 800 NIMS certification: *Provided*, That if the deputy State Resiliency Officer does not have a level ~~E/L-950~~ IS 800 NIMS certification when appointed, he or

she shall become so certified within one year following appointment; and

(C) Be thoroughly knowledgeable in matters relating to flood control, hazard mitigation, and disaster resiliency, or alternatively, in matters relating to disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field. ~~in matters relating to flood control and hazard mitigation, or alternatively, in matters relating to disaster recovery, emergency management, and emergency response; and~~

~~(D) If the State Resiliency Officer has his or her primary experience in flood control and hazard mitigation then his or her deputy must have experience in disaster recovery, emergency management, or emergency response; alternatively, if the State Resiliency Officer has his or her primary experience in disaster recovery, emergency management, or emergency response then his or her deputy must have experience in flood control and hazard mitigation~~

(5) The State Resiliency Officer shall employ additional staff as necessary to assist the State Resiliency Officer in carrying out the duties of the office.

(d) The board shall meet no less than once each calendar quarter at the time and place designated by the chair and the board shall work together with the State Resiliency Officer to fulfill the mission given to the State Resiliency Office to coordinate efforts for ~~emergency and~~ disaster planning, ~~response~~, recovery, and resiliency between government agencies, first responders and others.

The board will assist and advise the State Resiliency Officer in developing policies to accomplish, at a minimum, the following specific tasks in order to achieve these goals, and will assist the State Resiliency Officer in devising plans and developing procedures which will ensure that agencies and political subdivisions of the state carry out these following specific tasks:

(1) Establish mechanisms to coordinate disaster recovery and resiliency-related programs and activities among state agencies and to encourage intergovernmental as well as cross-sector coordination and collaboration;

(2) Evaluate the state's role in construction permitting process and identify opportunities to expedite the permitting process post-disaster and for selected types of mitigation and adaptation actions;

(3) Conduct a review of laws and regulations to identify those that create or add to risk, or interfere with the ability to reduce risk or to improve disaster recovery and resiliency;

(4) Conduct an inventory of relevant critical planned activity by state agencies to determine their proposed impact upon disaster recovery and resiliency;

(5) Make recommendations regarding practical steps that can be taken to improve efficiencies, and to pool and leverage resources to improve disaster recovery and resiliency;

(6) Identify, prioritize, and evaluate issues affecting implementation of mitigation and adaptation actions, including, but not limited to, the effect of ~~loss of land~~ increasing flood risk in context of zoning and other land use regulations, possible conflicts between public hazard mitigation/adaptation planning and private property interests (e.g. buy-out programs, projects to increase flood storage), develop guidance for cities and towns, real estate professionals, property owners under existing law and regulations; and develop proposals for changes in laws, policies, and regulations, as needed;

(7) Ensure all counties and municipalities ~~have~~ are covered by up-to-date Hazard Mitigation Plans and Local Comprehensive Disaster Plans that are consistent with, and coordinated to, the state's Hazard Mitigation Plans ~~and~~, Comprehensive Disaster Plans, and the state's Flood Resiliency Plan; including, but not limited to, assisting them in developing planning guidance for cities and towns to complete and/or update Hazard Mitigation Plans; providing technical assistance to help counties and

municipalities meet these standards; and provide notice to counties and municipalities of funding opportunities to implement projects outlined in their Hazard Mitigation Plans;

(8) Conduct risk assessments, including, but not limited to, examining state highway corridors and associated drainage systems for stormwater inundation, impacts of downed trees, effects on utilities, ~~etc.~~ and comparable facilities; assessment of known stormwater impacts between state highways and municipal drainage systems, options to eliminate or mitigate such impact; a housing vulnerability assessment for structures in riparian zones; a vulnerability assessment of critical infrastructure at the state and municipal levels including hospitals, schools, fire stations, and comparable facilities, and a vulnerability assessment of the state's historic and cultural resources;

(9) Establish working groups that will conduct assessments for varied sectors of the economy, such as small business, ports and river traffic, agriculture, manufacturing, and tourism; these assessments should address vulnerabilities and economic impacts, options to mitigate impacts, options to improve preparedness, response and recovery, and economic opportunities associated with design, engineering, technological and other skills and capabilities that can improve resilience;

(10) Establish emergency permitting procedures to expedite issuance of state permits following disasters, and develop guidance (model procedures) for political subdivisions to follow; and

(11) ~~Establish a model~~ Lead long-term recovery plan planning efforts on behalf of the state in the event of the proclamation of the existence of a state of emergency due to a natural hazards event, or upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act. ~~that would be activated after catastrophic events~~

All decisions of the board shall be decided by a majority vote of the members.

(e) The State Resiliency Office shall provide adequate staff from that office to ensure the meetings of the board are facilitated, board meeting minutes are taken, records and correspondence kept, and that reports of the board are produced in a timely manner.

(f) Notwithstanding any other provisions of this code:

(1) The meetings of the board are not subject to the provisions of §6-9A-1 *et seq.* of this code.

(2) The following are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code:

(A) All deliberations of the board;

(B) The materials, in any medium, including hard copy and electronic, placed in the custody of the board as a result of any of its duties; and

(C) All records of the board, in the possession of the board, and generated by the board, due to their falling under several exceptions to public disclosure including, but not limited to, that for security or disaster recovery plans and risk assessments.

§29-31-2a. Definitions.

As used in this article:

‘Board’ means the West Virginia State Resiliency Office Board created by this article;

‘Code’ means the Code of West Virginia, 1931, as amended;

‘Community facilities’ means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

‘Disaster’ means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, or terrorist, or man-made cause,

including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

‘Disaster recovery activities’ means activities undertaken following a disaster to provide, or to participate in, the provision of long-term rehabilitation of infrastructure, housing, community facilities, and economic activity impacted by a disaster event;

‘Flood Fund’ means the West Virginia Flood Resiliency Trust Fund created by this article;

‘Flood prevention or protection study’ means the conduct of a hydraulic or hydrologic study of a flood plain with historic and predicted future floods, the assessment of current and projected future flood risk, and the development of strategies to prevent or mitigate damage from flash or riverine flooding;

‘Flood resiliency’ means efforts and activities intended to minimize damages during times of flooding resulting in reduced risk to people and infrastructure, and ensuring there is ample room for flooding and river adjustment to occur where the opportunity may exist;

‘Low-income geographic area’ means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household income, or any area in the state designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service;

‘Low-income household’ means any household whose income does not exceed 80 percent of the local median household income;

‘Nature-based solution’ means sustainable planning, design, environmental management, and engineering practices that weave natural features or processes into the built environment to promote flood resiliency and preserve or enhance natural hydrologic function;

‘Person’ means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

‘Political subdivision’ means any county or municipal corporation in this state;

‘Recovery Trust Fund’ means the West Virginia Disaster Recovery Trust Fund created by this article; and,

‘Stafford Act’ means the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Chapter 68).

§29-31-3. Authority of State Resiliency Office and State Resiliency Officer.

The State Resiliency Office will coordinate the state’s disaster ~~response~~ recovery and resiliency missions and the State Resiliency Officer serves as the primary representative of the Governor in these matters. The State Resiliency Officer shall, upon the order and direction of the Governor, act on behalf of the Governor in the event of the proclamation of the existence of a state of emergency or state of preparedness due to a natural hazards event or ~~state of preparedness under the provisions of §15-5-6 of this code upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act.~~ The State Resiliency Officer will assist and advise the Governor on all disaster ~~response~~ recovery and resiliency issues and serve as a liaison between the Governor’s office, and all other parties, whether state, federal, public, or private to further the purposes of this article. The State Resiliency Officer will:

(1) Serve as coordinator of all economic and community resiliency planning and implementation efforts, including, but not limited to, flood protection programs and activities in the state;

(2) Develop a new state Flood Resiliency Plan due to the Board no later than June 30, 2024;

~~(2)~~(3) Coordinate an annual review of the state flood protection plan Flood Resiliency Plan and update the plan no less than

~~biannually~~ biennially, with updates due to the board no later than June 30 in even-numbered years;

~~(3)~~(4) Recommend legislation to reduce or mitigate flood damage;

~~(4)~~(5) Report to the Joint Legislative Committee on Flooding at least quarterly;

~~(5)~~(6) Catalog, maintain, and monitor a listing of current and proposed capital expenditures to reduce or mitigate flood damage and other hazards, and other useful and desirable resiliency efforts;

~~(6)~~(7) Coordinate planning of flood projects with federal agencies;

~~(7)~~(8) Improve professional management of flood plains;

~~(8)~~(9) Provide education and outreach on flooding issues to the citizens of this state;

~~(9)~~(10) Establish a single website integrating all agency flood information;

~~(10)~~(11) Monitor federal funds and initiatives that become available for disaster recovery and economic and community resiliency or other flood or hazard mitigation, and to direct expenditures on behalf of the Governor;

~~(11)~~(12) Pursue additional funds and resources to assist not only with long-term recovery efforts but also long-term community and statewide resiliency efforts;

~~(12)~~(13) Coordinate, integrate, and expand planning efforts in the state for hazard mitigation, long-term disaster recovery, and economic diversification;

~~(13)~~(14) Coordinate long-term disaster recovery efforts in response to disasters as they occur;

~~(14)~~(15) Establish and facilitate regular communication between federal, state, local, and private sector agencies, and organizations to further economic and disaster resilience;

~~(15)~~(16) Receive resources, monetary or otherwise, from any other governmental entity and disburse those resources to effectuate the purposes of this article;

~~(16)~~(17) Execute cooperative agreements, where appropriate, between the State Resiliency Office and the federal and/or state governments;

~~(17)~~(18) Contract, where appropriate, on behalf of the State Resiliency Office, with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia, and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals;

~~(18)~~(19) Use funds administered by the State Resiliency Office for the maintenance, construction, or reconstruction of capital repair and replacement items as necessary to effectuate the purposes of this article;

~~(19)~~(20) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia, and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for the purposes of disaster recovery, hazard mitigation, flood mitigation, flood prevention, and disaster response programs;

~~(20)~~(21) Hire necessary employees at an appropriate salary equivalent to a competitive wage rate;

~~(21)~~(22) Enroll appropriate employees in PERS, PEIA, and workers' compensation and unemployment programs, or their equivalents: *Provided*, That the State Resiliency Office, through the receipt of federal and/or state funds, pays the required employer contributions;

~~(22)~~(23) Develop a human resources division that will administer and manage its employees and receive state matching funds as necessary to ensure maximum federal funds are secured;

~~(23)~~(24) Have the ability to secure all other bonding, insurance, or other liability protections necessary for its employees to fulfill their duties and responsibilities;

~~(24)~~(25) Have the ability to draw upon other departments, divisions, agencies, and all other subdivisions of the state for research and input in fulfilling the requirements of this article, and its requests are to have priority over other such requests;

~~(25)~~(26) Participate in the interdepartmental transfer of permanent state employees, as if he or she were a department secretary, under the provisions of §5F-2-7 of this code.

~~(26)~~(27) Notwithstanding any other provision of this code to the contrary, acquire legal services that are necessary, including representation of the board, its employees, and officers before any court or administrative body from the office of the Attorney General, who shall provide such legal assistance and representation, and

~~(27)~~(28) Take all other actions necessary and proper to effectuate the purposes of this article.

The office shall have any other additional authority, duties, and responsibilities as prescribed by the Governor to effectuate the purposes of this article. Due to the at-will employment relationship with the office, its employees may not avail themselves of the state grievance procedure as set forth in §6C-2-1 *et seq.* of this code.

§29-31-6. West Virginia Disaster Recovery Trust Fund.

(a) There is hereby created a special trust fund which shall be designated and known as the West Virginia Disaster Recovery Trust Fund to be administered by the State Resiliency Officer. The recovery fund shall consist of: (1) Any appropriations, grants, gifts, contributions, or revenues received by the recovery fund from any source, public or private; and (2) all income earned on moneys,

properties, and assets held in the Recovery Fund. When any funds are received by the State Resiliency Officer from any source for the purpose of disaster recovery, they shall be paid into the Recovery Fund, and shall be disbursed and otherwise managed in the manner set forth in this article unless such a transfer is not allowable by law. The Recovery Fund shall be treated by the Auditor and Treasurer as a special revenue fund and not as part of the general revenues of the state.

(b) All moneys, properties, and assets acquired by the State of West Virginia in the Disaster Recovery Trust Fund shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys, properties, and assets shall at no time be commingled with other public funds except as authorized for investment under §29-31-8 of this code. Disbursements from the Recovery Fund shall be made only upon the written requisition of the the State Resiliency Officer as set forth in §29-31-7 and §29-31-8 of this code. If no need exists for immediate use or disbursement, moneys, properties, and assets in the Recovery Fund shall be invested or reinvested by the State Resiliency Officer as provided in this article.

§29-31-7. West Virginia Disaster Recovery Trust Fund disbursement.

Upon the proclamation of the existence of a state of emergency due to a natural hazards event under the provisions of §15-5-6 of this code or upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act, the State Resiliency Officer shall have the power to disburse funds from the Disaster Recovery Trust Fund created pursuant to §29-31-6 of this code to any person, political subdivision, or local organization for emergency services in such amounts and in such manner, and to take such other actions, as the State Resiliency Officer may determine is necessary or appropriate in order to provide assistance to any person, political subdivision, or local organization for recovering from the disaster, or otherwise involved in disaster recovery activities: *Provided*, That except as provided hereafter in this section, requisitions for payment shall not be made or authorized for payment by the

Auditor without the express approval of the State Resiliency Officer: *Provided, however,* That all disbursements arising out of the events surrounding the aftermath of a disaster event giving rise to the relevant disbursements shall require the express approval of the State Resiliency Officer, which approval shall not be unduly withheld or delayed.

In the occurrence of a qualifying event granting the State Resiliency Officer the power to disburse funds from the Disaster Recovery Trust Fund, the following provisions and conditions shall be adhered to:

(1) Disbursements shall be prioritized to the benefit of low-income households and geographic areas, and not less than 50 percent of all funds disbursed through the Disaster Recovery Trust Fund following any particular disaster event shall be disbursed to the benefit of low-income geographic areas, low-income households, or to local organizations conducting disaster recovery activities to the benefit of low-income geographic areas or low-income households;

(2) Disbursements to the benefit of a political subdivision may only be allowed upon the verification to the State Resiliency Officer that the recipient political subdivision has adopted, or will adopt within 24 months, the following programs or measures or risk forfeiture of future funding opportunities:

(A) Town road and bridge standards consistent with or exceeding those listed under the most current version of standards published by the West Virginia Department of Transportation;

(B) A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

(C) A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community and is approved or in the process of securing final approval by

FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan;

(D) Adoption of a local Emergency Operations Plan (EOP) in accordance with State standards; and

(E) Attainment of an active rate classification (class #1 through #9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; and

(3) Disbursements may be further prioritized or conditioned at the discretion of the State Resiliency Officer and upon approval of the State Resiliency Office Board.

§29-31-8. Powers and duties related to the West Virginia Disaster Recovery Trust Fund.

The State Resiliency Officer is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes set forth in §29-31-7 of this code. The State Resiliency Officer has the power:

(1) To accept appropriations, gifts, grants, bequests, and devises from any source, public or private, for deposit into the Recovery Fund, and to use or dispose of the same to provide assistance to any person, political subdivision, or local organization for recovering from a disaster, or otherwise involved in disaster recovery activities;

(2) To make and execute contracts, leases, releases, and other instruments necessary or convenient for the exercise of its power;

(3) To make, and from time to time, amend, and repeal bylaws for the governance of its activities not inconsistent with the provisions of this article;

(4) To sue and be sued;

(5) To acquire, hold, and dispose of real and personal property;

(6) To enter into agreements or other transactions with any federal or state agency, political subdivision, or person;

(7) To provide for the deposit of any funds or assets of the West Virginia Disaster Recovery Trust Fund with the state Treasurer for investment pursuant to §12-6C-6 of this code;

(8) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(9) To provide financial assistance to state and local governmental entities for the nonfederal share for federal disaster assistance programs;

(10) To provide for financial assistance to homeowners and communities that are not eligible for Community Development Block Grant-Disaster Recovery and other federal funding assistance;

(11) To provide loans and grants to local governments in disaster areas that need immediate cash flow assistance;

(12) To provide grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code to repair or replace infrastructure or equipment damaged as a result of a natural disaster;

(13) To provide financial assistance for verifiable losses of agricultural commodities due to a natural disaster; and

(14) Do all acts necessary and proper to carry out the powers granted to the State Resiliency Office within its disaster recovery mission.

§29-31-9. Capitalization of the West Virginia Disaster Recovery Trust Fund.

(a) The West Virginia Disaster Recovery Trust Fund may be granted an initial one-time allocation of \$10 million in state general funds for the purposes outlined in this article.

(b) The State Resiliency Officer shall, with the concurrence of the State Auditor, present an expenditure report to the State Resiliency Office Board by no later than December 1 annually.

(c) Upon review and verification by the State Resiliency Office Board that all expenditures within the West Virginia Disaster Recovery Trust Fund expenditure report are valid and justified uses of Recovery Fund resources, the State Resiliency Office Board shall submit to the Governor by no later than December 31 annually a budget and may request to replenish the Recovery Fund up to its initial \$10 million capitalization.

§29-31-10. West Virginia Flood Resiliency Trust Fund.

(a) There is hereby created a special trust fund which shall be designated and known as the West Virginia Flood Resiliency Trust Fund to be administered by the State Resiliency Officer. The Flood Fund shall consist of: (1) Any appropriations, grants, gifts, contributions, or revenues received by the Flood Fund from any source, public or private; and (2) all income earned on moneys, properties, and assets held in the Flood Fund. When any funds are received by the State Resiliency Officer from any source for flood resiliency activities, they shall be paid into the Flood Fund, and shall be disbursed and otherwise managed in the manner set forth in this article. The Flood Fund shall be treated by the Auditor and Treasurer as a special revenue fund and not as part of the general revenues of the state.

(b) All moneys, properties, and assets acquired by the State of West Virginia in the Flood Fund shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys, properties, and assets shall at no time be commingled with other public funds except as authorized for investment under §29-31-12 of this code. Disbursements from the Flood Fund shall be made only upon the the written requisition of the State Resiliency Officer as set forth in §29-31-11 and §29-31-12 of this code. If no need exists for immediate use or disbursement, moneys, properties, and assets in the Flood Fund

shall be invested or reinvested by the State Resiliency Officer as provided in this article.

§29-31-11. West Virginia Flood Resiliency Trust Fund disbursement.

Upon the development of a new state Flood Resiliency Plan, the State Resiliency Officer shall have the power to disburse funds from the Flood Fund for the purposes of implementing the Flood Resiliency Plan to any person, political subdivision, or local organization in such amounts and in such manner, and to take such other actions, as the State Resiliency Officer may determine is necessary or appropriate and is outlined within the Flood Resiliency Plan. All assistance to any person, political subdivision, or local organization shall be for the purposes of building flood resiliency in the face of current and projected future flood disaster events: *Provided*, That except as provided hereafter in this section, requisitions for payment shall not be made or authorized for payment by the Auditor without the express approval of the State Resiliency Officer: *Provided, however*, That all disbursements shall require the express approval of the State Resiliency Officer, which approval shall be contingent on the proposed activity appearing as a valid proposed flood resiliency activity and prioritized for implementation within the most recent Flood Resiliency Plan as reviewed and approved by the State Resiliency Office Board.

Following the development and approval of a new state Flood Resiliency Plan, the State Resiliency Officer is granted the power to disburse funds from the Flood Resiliency Trust Fund. In accordance with these powers, the following provisions and conditions shall be adhered to:

(1) Disbursements from the Flood Fund shall be used solely for the purposes of enhancing flood prevention or protection as required by this article. The State Resiliency Office shall manage the Flood Fund and may disburse from the Flood Fund its reasonable costs and expenses incurred in the management of the Flood Fund;

(2) Disbursements shall be prioritized to the benefit of low-income geographic areas, and not less than 50 percent of all funds disbursed through the Flood Resiliency Trust Fund shall be disbursed to the benefit of low-income geographic areas and low-income households;

(3) Disbursements shall be prioritized toward the implementation of nature-based solutions, and not less than 50 percent of all funds disbursed through the Flood Resiliency Trust Fund shall be disbursed to implement nature-based solutions. Of disbursements made to implement nature-based solutions, not less than 25 percent of these disbursements shall be utilized for the acquisition of single-family primary residences and multifamily residences in areas currently or projected to be subjected to significant flood impacts, assistance to residents relocating outside of the floodplain, and floodplain restoration activities on properties acquired through the Flood Fund;

(4) Disbursements to the benefit of a political subdivision may only be allowed upon the verification to the State Resiliency Officer that the recipient political subdivision has adopted, or will adopt within 24 months, the following programs or measures:

(A) Town road and bridge standards consistent with or exceeding those listed under the most current version of standards published by the West Virginia Department of Transportation;

(B) A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

(C) A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community, and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan;

(D) Adoption of a local Emergency Operations Plan (EOP) in accordance with state standards; and,

(E) Attainment of an active rate classification (class #1 through #9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; and

(5) Prioritization and conditions for disbursements at the discretion of the State Resiliency Officer and upon approval of the State Resiliency Office Board.

§29-31-12. Powers and duties related to the West Virginia Flood Resiliency Trust Fund.

The State Resiliency Officer is hereby granted, has, and may exercise all powers necessary or appropriate to carry out and effectuate the purposes set forth in §29-31-11 of this code. The State Resiliency Officer has the power:

(1) To accept appropriations, gifts, grants, bequests, and devises from any source, public or private, for deposit into the Flood Fund, and to use or dispose of the same to provide assistance to any person, political subdivision, or local organization for flood resiliency, flood prevention, and flood protection activities;

(2) To make and execute contracts, leases, releases, and other instruments necessary or convenient for the exercise of its power;

(3) To make, and from time to time, amend, and repeal bylaws for the governance of its activities not inconsistent with the provisions of this article;

(4) To sue and be sued;

(5) To acquire, hold, and dispose of real and personal property;

(6) To enter into agreements or other transactions with any federal or state agency, political subdivision, or person;

(7) To provide for the deposit of any funds or assets of the West Virginia Flood Resiliency Trust Fund with the state Treasurer for investment pursuant to §12-6C-6 of this code;

(8) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(9) To procure services related to the development and updating of the state Flood Resiliency Plan;

(10) To provide loans or grants to political subdivisions and individual beneficiaries for the purpose of implementing activities proposed and outlined within the Flood Resiliency Plan;

(11) To provide loans or grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code for the purpose of implementing activities proposed and outlined within the Flood Resiliency Plan;

(12) To provide loans or grants to political subdivisions for the purpose of conducting flood prevention and protection studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager; and

(13) Do all acts necessary and proper to carry out the powers granted to the State Resiliency Office for flood resiliency activities.

§29-31-13. Capitalization of the West Virginia Flood Resiliency Trust Fund.

(a) The West Virginia Flood Resiliency Trust Fund may be granted an initial one-time allocation of \$40 million in state general funds for the purposes outlined in this article.

(b) The State Resiliency Officer shall, with the concurrence of the State Auditor, present an expenditure report to the State Resiliency Office Board by no later than December 1 annually.

(c) Upon review and verification by the State Resiliency Office Board that all expenditures within the West Virginia Flood Resiliency Trust Fund expenditure report are valid and justified uses of Flood Fund resources, the State Resiliency Office Board shall submit to the Governor by no later than December 31

annually a budget and may request to replenish the Flood Fund up to its initial \$40 million capitalization.

§29-31-14. Tax exemption.

The State Resiliency Officer shall not be required to pay any taxes and assessments to the state or any political subdivision of the state upon any of its moneys, properties, or assets or upon its obligations or other evidences of indebtedness pursuant to the provisions of this article, or upon any moneys, funds, revenues, or other income held or received into the West Virginia Disaster Recovery Trust Fund or the West Virginia Flood Resiliency Trust Fund.”.

On motion of Delegates Riley and Criss, the amendment was amended, on page twenty-four, section thirteen, following line nine, by inserting a new subsection (d) to read as follows:

“(d) Upon state receipt of Community Development Block Grant-Disaster Recovery funds in relation to a flood disaster event, and in order to provide the state with the flexibility required to provide assistance to any person, political subdivision, or local organization recovering from the flood disaster event, a minimum of six percent of those funds shall be dedicated for the purposes of Flood Resiliency Plan development and implementation activities to the extent that those purposes are in compliance with applicable federal laws and regulations governing such funds and compatible with the state’s long-term recovery goals.”

The Committee on Finance amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 678, Adding appropriations to DHHR, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 733, Relating to wildlife licenses and stamps; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Phillips, the bill was amended on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 2. WILDLIFE RESOURCES.

§20-2-421. Class A-1 small arms hunting stamp.

~~Notwithstanding the provisions of section two, article seven, chapter sixty one of this code, a~~ A Class A-1 stamp is a small arms hunting stamp. ~~To be eligible to get a Class A-1 stamp, a person must be legally able to possess a firearm. If a person is otherwise qualified, Except for any person prohibited from possessing a firearm by state or federal law, to a Class A-1 stamp may be issued to a person twenty-one~~ 18 years of age or older who is otherwise qualified and holds a valid resident or nonresident hunting license, or to a person who is a resident ~~sixty-five~~ 65 years of age or older; ~~but a Class A-1 stamp shall never be issued to a person who has been convicted of a misdemeanor associated with the use of firearms or dangerous weapons or who has been convicted of a felony. A Class A-1 stamp entitles the licensee to hunt, as otherwise permitted by the provisions of this chapter, but only during small game and big game seasons as established annually by the Director, with either a revolver or pistol which has a barrel at least four inches in length. Unless otherwise permitted by the Code of West Virginia, a Class A-1 stamp entitles the licensee to carry or have in his or her possession only one revolver or pistol when going to and from his or her home or residence and a place of hunting and while hunting: Provided, That the Class A-1 stamp may not be valid unless the licensee has in his or her possession a valid resident or nonresident hunting license or is a resident sixty-five~~ 65 years of age or older: *Provided, however,* ~~That at all times, when not actually hunting, the revolver or pistol shall be unloaded. While~~ while hunting, the licensee shall carry the revolver or pistol in an unconcealed and easily visible place. Nothing in this section shall be construed to prohibit a person from carrying a firearm for self-defense who is not prohibited from possessing a firearm by state or federal law. The fee for the stamp is \$8. A lifetime Class A-1 stamp may be issued to anyone otherwise qualified and holding a valid Class A-L or, AB-L, E-L or EE-L license or to a

resident ~~sixty-five~~ 65 years of age or older. The lifetime Class A-1 stamp will be issued in a form prescribed by the Director. The fee for a lifetime Class A-1 stamp is \$75. All fees collected for the issuance of the Class A-1 and lifetime Class A-1 stamps shall be deposited in the State Treasury and credited to the law-enforcement section of the Division of Natural Resources. The fees collected shall be paid out of the State Treasury on order of the Director and used solely for law-enforcement purposes. Any person ~~convicted of a misdemeanor associated with the use of firearms or dangerous weapons or convicted of a felony, or any person~~ who becomes legally unable to possess a firearm shall immediately surrender the stamp to the Division of Natural Resources. A holder of a Class A-1 or lifetime Class A-1 stamp is required to purchase the appropriate base license before participating in the activities specified in this section, except as noted.

ARTICLE 2B. WILDLIFE ENDOWMENT FUND.

20-2B-7. Lifetime hunting, fishing, and trapping licenses created.

(a) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu of the equivalent annual license: Lifetime resident statewide hunting and trapping license; lifetime resident combination statewide hunting, fishing, and trapping license; lifetime resident statewide fishing license; and lifetime resident trout fishing license.

(b) The director shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code, setting fees for lifetime licenses ~~and shall have authority to promulgate emergency legislative rules necessary to make effective the provisions of this section by July 1, 2021.~~ The fees for adult lifetime licenses shall be 23 times the fee for the equivalent annual licenses or stamps. The rule shall provide that the fee for any resident who has not reached his-or her 15th birthday shall be:

(1) Forty percent of the adult fee set under rule for any resident who has not reached his or her first birthday;

(2) Fifty-five percent of the adult fee set under rule for any resident who is over one year old but has not reached his or her fifth birthday;

(3) Seventy-five percent of the adult fee set under rule for any resident who is over five years old but has not reached his or her 10th birthday; and

(4) Ninety percent of the adult fee set under rule for any resident who is over 10 years old but has not reached his or her 15th birthday.

The rule shall also provide that any resident who has not reached his or her 15th birthday and has been legally adopted shall be provided the same fee schedule, except the division shall use the date of entry of the order or decree of adoption as the licensee's date of birth for purposes of calculating the appropriate fee: *Provided*, That in addition to the provisions of this subsection for adopted children, foster parents may also purchase a lifetime license for their respective foster children under the same guidelines, except the division shall use the date of entry of the order placing the child in foster care as the licensee's date of birth for purposes of calculating the appropriate fee.

(c) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu of the equivalent annual license: Lifetime nonresident statewide hunting and trapping license; lifetime; lifetime nonresident statewide fishing license; and lifetime nonresident bear hunting license.

(d) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping stamps and for the lifetime of the licensee, the lifetime stamps serve in lieu of the equivalent annual stamp: Lifetime nonresident trout fishing stamp; lifetime nonresident archery deer hunting stamp; lifetime nonresident muzzleloading deer hunting stamp; lifetime nonresident turkey hunting stamp; and lifetime nonresident national forest hunting, fishing, and trapping stamp.

(e) The director shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code, setting fees for nonresident lifetime licenses and stamps and shall have authority to promulgate emergency legislative rules necessary to make effective the provisions of this section by July 1, 2023. The fees for adult nonresident lifetime licenses and stamps shall be 23 times the fee for the equivalent annual licenses or stamps. The rule shall provide that the fee for any nonresident who has not reached his or her 15th birthday shall be:

(1) Forty percent of the adult fee set under rule for any nonresident who has not reached his or her first birthday;

(2) Fifty-five percent of the adult fee set under rule for any nonresident who is over one year old but has not reached his or her fifth birthday;

(3) Seventy-five percent of the adult fee set under rule for any nonresident who is over five years old but has not reached his or her 10th birthday; and

(4) Ninety percent of the adult fee set under rule for any nonresident who is over 10 years old but has not reached his or her 15th birthday.

§20-2B-8. Privileges of lifetime licensees.

(a) Pursuant to ~~section seven of this article~~ §20-2B-7 of this code, resident lifetime licensees shall be entitled to the same privileges and subject to the same restrictions as resident licensees possessing the equivalent annual license with the following exceptions:

(1) Class A-L, AB-L, B-L and O-L licenses shall be valid for the lifetime of the licensee;

(2) A Class O-L lifetime resident trout fishing license shall be issued only to residents of the state and shall be valid only when accompanied by a Class AB-L, B, B-L, X or XJ license; and

(3) No additional fee shall be required of Class A-L, AB-L or B-L licensees for the conservation stamp required by ~~section nine of this article~~ §20-2B-9 of this code. No additional fee shall be required of Class A-L or AB-L licensees for the Class BG stamp required by ~~section forty-two-v, article two of this chapter~~ §20-2-42v of this code.

(b) Pursuant to §20-2B-7 of this code, nonresident lifetime licensees shall be entitled to the same privileges and subject to the same restrictions as nonresident licensees possessing the equivalent annual license with the following exceptions:

(1) Class E-L, EE-L, F-L and OO-L licenses shall be valid for the lifetime of the licensee; and

(2) No additional fee shall be required of Class E-L, EE-L, or F-L licensees for the nonresident conservation law-enforcement and sports education stamp required by §20-2B-10 of this code.

(3) A Class OO-L lifetime nonresident trout fishing license shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class F or F-L license; and

(4) A Class UU-L lifetime resident archery deer hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(5) A Class VV-L lifetime nonresident muzzleloading deer hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(6) A Class WW-L lifetime nonresident turkey hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(7) A Class I-L lifetime nonresident national forest hunting, trapping, and fishing stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L, EE-L, or F-L license.”

The bill was then ordered to third reading.

S. B. 734, Requiring adoption of cloud computing services by state agencies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 735, Clarifying department responsible for administration of certain programs; on second reading, coming up in regular order, was read a second time.

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

S. B. 737, Emergency Medical Services Act; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-25. Emergency Medical Services Salary Enhancement Fund.

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the Emergency Medical Services Salary Enhancement Fund which is an interest- and earnings-accumulating account. The fund is established to support supplementing the salaries of, and providing crisis response for, county emergency medical service personnel as that term is defined in §16-4C-3(g) of this code or a county designated or contracted emergency medical service provider and all moneys must be spent to support increasing salaries of emergency medical service workers and providing crisis response to encourage retention. The fund consists of moneys appropriated by the Legislature, grants, gifts, devises, and donations from any public or private source. All interest and other returns derived from the deposit and investment of moneys in the Emergency Medical Services Salary Enhancement 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 in this section. The Director of the West Virginia Office of Emergency Medical Services shall administer the fund.

(b) The Director of the Office of Emergency Medical Services shall propose legislative rules for promulgation and promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code. These rules shall include a means of distributing any available funds to counties to accomplish the purpose of this section with an emphasis on the following factors:

(1) Counties who may demonstrate the most need;

(2) Counties that have a special levy for emergency medical services;

(3) Counties that have reached the maximum allowable rate on regular levies; and/or

(4) Counties that have a challenge recruiting and retaining emergency medical services personnel due to interstate competition.

(c) The Office of Emergency Medical Services shall prepare an annual report to the Legislative Oversight Commission on Health and Human Resources Accountability. The report shall provide:

(1) A county-by-county accounting of how the funds were distributed;

(2) An accounting by county of the number of emergency medical service workers receiving a salary enhancement; and

(3) Recommendations for continued funding.

The first report is due by July 1, 2024, and annually thereafter.”.

The bill was then ordered to third reading.

S. B. 739, Relating to moratorium on carbon capture agreements; on second reading, coming up in regular order, was read a second time.

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

“CHAPTER 11. TAXATION.

ARTICLE 12. BUSINESS REGISTRATION TAX.

§11-12-4b. Parties to carbon offset agreements required to register.

(a) Definitions.—

(1) ‘Carbon offset agreement’ means any agreement, whether designated as a carbon capture agreement, carbon sequestration agreement, or otherwise, entered into between an owner of an interest in real estate in West Virginia including any type of minerals or growing timber, and any other person, entity or company, with the intent of providing payment, compensation, or remuneration for nondevelopment of a real estate interest in West Virginia to prevent the release of carbon dioxide or other greenhouse gases into the atmosphere or to absorb, suppress, or contain carbon dioxide or other greenhouse gases. A carbon offset agreement may be in the form of a contract, lease, easement, covenant, option, or otherwise, with the form of the agreement not being determinative of its status as a carbon offset agreement; Provided, That such agreements or restrictions for the injection and containment of carbon dioxide or other greenhouse gases into underground pore or container spaces and methane capture and flaring operations are not carbon offset agreements.

(2) ‘Greenhouse gases’ means any of various gaseous or vaporous compounds such as carbon dioxide or methane that absorb infrared radiation and may trap heat in Earth’s atmosphere.

(b) Registration.— Any party or parties that enter into a carbon offset agreement, as that term is defined in this section, with a West Virginia landowner, and their assignees of rights, shall apply to the Tax Commissioner for an initial business registration certificate within 60 days of entering into such agreement or within 60 days of the effective date of this section, whichever is later, on forms created through rulemaking authority by the State Tax Department. This requirement applies to carbon offset agreements entered on or before the effective date of this section and currently in effect, and new carbon offset agreements entered after the effective date of this section. The application for the business registration certificate for carbon offset agreements shall provide the following information:

(1) Legal names, addresses, and other contact information of all parties to the carbon offset agreement;

(2) Location and description of the real estate in West Virginia covered by the carbon offset agreement, including the postal address of the property, if available, and tax parcel or other tax map identifier of the property;

(3) Term of the agreement in years;

(4) Identification of the carbon offset program or programs, if any, with which the agreement is intended to comply;

(5) Identification and description of any and all restrictions placed on the West Virginia real estate or other property by the carbon offset agreement;

(6) Estimated yearly consideration to be paid; and

(7) Any other information required by the Tax Commissioner.

(c) The party or parties that enter into a carbon offset agreement with a West Virginia landowner and their assignees of rights shall inform the Tax Commissioner of any changes to the agreement or assignments of rights under the agreement within 60 days of the change or assignment taking effect.

(d) *Registration.*— Notwithstanding any other provision of this code, the party or parties that enter into a carbon offset agreement with a West Virginia landowner and their assignees of rights to a carbon offset agreement shall apply to the Tax Commissioner for a new registration certificate within five years of the effective date of the agreement, and at five-year intervals thereafter, unless the agreement is terminated before that time.

(e) *Reporting.*— Beginning on July 1, 2024, and on or before July 1 of every year thereafter, the Tax Commissioner shall submit a report to the Governor and the Joint Committee on Government and Finance setting forth at a minimum the following information:

(1) The number and type of carbon offset agreements in effect burdening real estate in West Virginia during the preceding calendar year,

(2) The number of acres of real estate burdened by carbon offset agreements during the preceding calendar year and the counties in West Virginia in which they are found, and

(3) The amount of consideration paid to West Virginia landowners under carbon offset agreements during the preceding calendar year.

(f) The provisions of this article are subject to the West Virginia Tax Procedure and Administration Act, set forth in §11-10-1 *et seq.* of this code, and the West Virginia Tax Crimes and Penalties Act, set forth in §11-9-1 *et seq.* of this code, as if the provisions thereof were set forth *in extenso* in this article.

(g) *Information disclosure.*— Notwithstanding the provisions of §11-10-5d of this code and notwithstanding any other provision of this code, the Tax Commissioner is authorized to disclose such generalized registration information and other information as may be necessary to administer these provisions and compile the report required under this section.”

The bill was then ordered to third reading.

S. B. 740, Relating to compensation and expense reimbursement for members of Legislature; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for H. B. 2883, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund; on second reading, coming up in regular order, was read a second time.

An amendment sponsored by Delegate Foster, was reported by the Clerk, on page 2, section 6, line 20, by striking the number “\$482,000,000” and inserting in lieu thereof the following:

“\$282,000,000”;

And,

On page 2, section 6, line 22, by striking the number “\$177,000,000” and inserting in lieu thereof the following:

“\$377,000,000”.

Delegate Foster asked unanimous consent for an amendment sponsored by Delegate Kirby to be considered first, and it was reported by the Clerk on page 2, section 6, line 20, by striking the following text:

“\$482,000,000 shall be transferred to the Economic Development Authority (fund 9069)”, and inserting in lieu thereof the following:

“\$100,000,000 shall be transferred to the Public Employee Insurance Agency (fund 0200), \$142,000,000 shall be transferred to the Division of Corrections and Rehabilitation (fund 0450), \$240,000,000 shall be transferred to the Local Economic Development Assistance (fund 0105)”.

Delegate Pushkin was then recognized to explain an amendment he sponsored.

Whereupon,

Delegate Pushkin subsequently asked and obtained unanimous consent that the amendment be withdrawn.

Debate was permitted on the amendments offered by Delegates Kirby and Foster before the vote on the amendment by Delegate Kirby, adoption of which would preclude adoption of the amendment by Delegate Foster.

During debate, Delegate Martin moved the previous question, which demand was sustained.

On this question, the yeas and nays were taken (**Roll No. 620**), and there were—yeas 61, nays 31, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Anderson, Burkhammer, Butler, Dean, Dillon, Espinosa, Fluharty, Foggin, Foster, Garcia, A. Hall, Hanna, Hansen, Hardy, Hornbuckle, Horst, Kirby, Longanacre, E. Pritt, Pushkin, Ridenour, Rowe, Skaff, Statler, Storch, Vance, Walker, Warner, Williams, Willis and Worrell.

Absent and Not Voting: Bridges, Capito, Cooper, Mallow, McGeehan, Nestor, Ross and Young.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

Delegate Foster arose to a point of order regarding the sponsor being allowed to close debate, which point the Speaker sustained.

Delegates Adkins, Barnhart, Dillon, A. Hall, Hardy, Hornby, Linville, Maynor and Riley requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and did not excuse the Members from voting.

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

The yeas and nays having been ordered, they were taken (**Roll No. 621**), and there were—yeas 27, nays 66, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Coop-Gonzalez, Dean, Dillon, Fluharty, Foggin, Garcia, Griffith, Hanna, Hansen, Hornbuckle, Keaton, Kirby, Longanacre, Marple, E. Pritt, Pushkin, Ridenour, Rowe, Skaff, Steele, Vance, Walker, Williams and Worrell.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Ross and Young.

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

The question now being on the adoption of the amendment sponsored by Delegate Foster, the yeas and nays were taken (**Roll No. 622**), and there were—yeas 20, nays 73, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Coop-Gonzalez, Dean, Dillon, Foster, Garcia, A. Hall, Kimble, Kirby, Linville, Longanacre, Marple, Martin, E. Pritt, Ridenour, Steele, Vance and Walker.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Ross and Young.

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

Delegate Pushkin moved to amend the bill on page 2, line 23 by striking out the period, inserting a colon and the following proviso:

“Provided, That all funds allocated and distributed may only be expended in compliance with ARPA Enumerated Use Expenditure Categories as set forth in Appendix 1 of U.S. Department of Treasury “Coronavirus State and Local Fiscal Recovery Funds: Compliance and Reporting Guidance.”

The question being on the adoption of the amendment, the same was put and did not prevail.

On motion of Delegate Criss, the bill was amended on page two, line twenty-three, following the word “Authority”, by striking out the words “(fund 3384)” and inserting in lieu thereof the “(fund 3382)”.

The bill was then ordered to engrossment and third reading.

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

Committee Reports

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 552, Relating to abortion,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

On motion of Delegate Householder, the bill (Com. Sub. for S. B. 552) was taken up for immediate consideration, read a first time, and ordered to second reading.

At 6:30 p.m., the House of Delegates adjourned until 9:30 a.m., Friday, March 10, 2023.

Friday, March 10, 2023

FIFTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, March 9, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Messages from the Executive
and Other Communications**

The Clerk announced that **H. B. 3340** had become law without the signature of the Governor.

A communication from His Excellency, the Governor, advised that on March 9, 2023, he approved **Com. Sub. for H. B. 3042**.

Communication from the Clerk of the Senate to His Excellency, the Governor, advised that S. B. 142, S. B. 237, Com. Sub. for S. B. 335, Com. Sub. for S. B. 439, S. B. 449, Com. Sub. for S. B. 450, Com. Sub. for S. B. 453, Com. Sub. for S. B. 455, S. B. 458, Com. Sub. for S. B. 475, S. B. 529 and S. B. 605 were presented to the Governor on March 9, 2023.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2024, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

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

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

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 2024.

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 2024” shall mean the period from July 1, 2023, through June 30, 2024.

“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 ten percent of the general revenue funds appropriated to the following funds xxxx, xxxx, xxxx, xxxx,

xxxx, xxxx, xxxx, xxxx, xxxx and xxxx within the Department of Health and Human Resources 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” and “contract nursing” 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 2024, and upon approval from the State Budget Office, agencies with the appropriation “Salary and Benefits of Cabinet Secretary and Agency Heads” 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, 2024, 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 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 2024.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2024 Org 2100

	General Revenue Fund
Appro- priation	

Compensation of Members (R).....	00300	\$	1,010,000
Compensation and Per Diem of Officers and Employees (R)	00500		4,011,332
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		450,000
BRIM Premium (R)	91300		<u>44,482</u>
Total.....		\$	5,952,206

The appropriations for the Senate for the fiscal year 2023 are to remain in full force and effect and are hereby reappropriated to June 30, 2024. Any balances so reappropriated may be transferred and credited to the fiscal year 2023 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 2024 Org 2200

Compensation of Members (R).....	00300	\$	3,000,000
Compensation and Per Diem of			
Officers and Employees (R)	00500		575,000
Current Expenses and			
Contingent Fund (R).....	02100		4,399,031
Expenses of Members (R).....	39900		1,350,000
Capital Outlay, Repairs and			
Equipment (R)	58900		500,000
BRIM Premium (R)	91300		80,000
Total.....		\$	9,904,031

The appropriations for the House of Delegates for the fiscal year 2023 are to remain in full force and effect and are hereby reappropriated to June 30, 2024. Any balances so reappropriated may be transferred and credited to the fiscal year 2023 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 2024 Org 2300

Joint Committee on Government		
and Finance (R).....	10400	\$ 7,725,138
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	60,569
Total.....		\$ 10,240,457

The appropriations for the Joint Expenses for the fiscal year 2023 are to remain in full force and effect and are hereby reappropriated to June 30, 2024. Any balances reappropriated may be transferred and credited to the fiscal year 2023 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 2024 Org 2400

Personal Services and		
Employee Benefits (R)	00100	\$ 129,136,873
Current Expenses (R).....	13000	21,482,914
Repairs and Alterations (R)	06400	40,000
Equipment (R).....	07000	1,814,000

Military Services Members

Court (R).....	09002	300,000
Judges' Retirement System (R)	11000	854,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	80,000
BRIM Premium (R)	91300	716,410
Total.....		\$ 154,434,197

The appropriations to the Supreme Court of Appeals for the fiscal years 2021, 2022 and 2023 are to remain in full force and effect and are hereby reappropriated to June 30, 2024. Any balances so reappropriated may be transferred and credited to the fiscal year 2023 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 2024 Org 0100

Personal Services and

Employee Benefits.....	00100	\$ 3,409,542
Current Expenses (R)	13000	799,000
Repairs and Alterations.....	06400	25,000
Equipment.....	07000	1,000
National Governors Association	12300	60,700
Herbert Henderson Office of Minority Affairs	13400	396,726

Community Food Program	18500	1,000,000
Office of Resiliency (R).....	18600	613,421
BRIM Premium.....	91300	<u>183,645</u>
Total.....		\$ 6,489,034

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and Office of Resiliency (fund 0101, appropriation 18600) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 2024 Org 0100

Personal Services and		
Employee Benefits.....	00100	\$ 410,065
Current Expenses (R).....	13000	182,158
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>1,000</u>
Total.....		\$ 598,223

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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 2024 Org 0100

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 2024 Org 1200

Personal Services and

Employee Benefits.....	00100	\$	2,546,998
Current Expenses (R).....	13000		13,429
BRIM Premium.....	91300		<u>12,077</u>
Total.....		\$	2,572,504

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100) is \$95,000 for the Salary of the Auditor.

9 - Treasurer's Office

(W.V. Code Chapter 12)

Fund 0126 FY 2024 Org 1300

Personal Services and

Employee Benefits.....	00100	\$	2,711,818
Unclassified.....	09900		31,463
Current Expenses (R).....	13000		572,684
Abandoned Property Program.....	11800		41,794
Other Assets.....	69000		10,000
ABLE Program	69201		150,000
BRIM Premium.....	91300		<u>59,169</u>
Total.....		\$	3,576,928

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of

the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100) is \$95,000 for the Salary of the Treasurer.

10 - Department of Agriculture

(W.V. Code Chapter 19)

Fund 0131 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 6,808,433
Current Expenses (R).....	13000	848,115
Animal Identification Program	03900	136,407
State Farm Museum	05500	87,759
Gypsy Moth Program (R)	11900	1,098,069
WV Farmers Market	12801	150,467
Black Fly Control.....	13700	459,453
HEMP Program.....	13701	375,033
Donated Foods Program	36300	45,000
Veterans to Agriculture		
Program (R)	36301	268,572
Predator Control (R)	47000	176,400
Bee Research.....	69100	74,662
Microbiology Program.....	78500	105,583
Moorefield Agriculture Center.....	78600	1,056,879
Chesapeake Bay Watershed.....	83000	120,911
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA Camp and		
Conference Center	94101	778,539
Threat Preparedness	94200	77,869
WV Food Banks.....	96900	426,000
Senior's Farmers' Market		
Nutrition Coupon Program	97000	55,835
Total.....		\$ 13,297,711

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100) is \$95,000 for the Salary of the Commissioner.

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 2024 Org 1400

Personal Services and		
Employee Benefits.....00100	\$	869,296
Unclassified.....09900		77,059
Current Expenses (R).....13000		317,848
Soil Conservation Projects (R).....12000		10,107,529
BRIM Premium.....91300		34,428
Total.....	\$	11,406,160

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

12 - Department of Agriculture –

Meat Inspection Fund

(W.V. Code Chapter 19)

Fund 0135 FY 2024 Org 1400

Personal Services and

Employee Benefits.....	00100	\$	1,032,292
Unclassified.....	09900		7,090
Current Expenses	13000		<u>82,605</u>
Total.....		\$	1,121,987

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 2024 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 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 105,302
Unclassified.....	09900	950
Total.....		<u>\$ 106,252</u>

15 - Attorney General

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

Fund 0150 FY 2024 Org 1500

Personal Services and		
Employee Benefits (R)	00100	\$ 3,387,827
Unclassified (R)	09900	24,428
Current Expenses (R).....	13000	681,295
Repairs and Alterations.....	06400	1,000
Equipment	07000	7,500
Criminal Convictions and		
Habeas Corpus Appeals (R).....	26000	988,021
Better Government Bureau	74000	287,469
BRIM Premium.....	91300	<u>120,654</u>
Total.....		<u>\$ 5,498,194</u>

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100) is \$95,000 for the Salary of the Attorney General.

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 2024 Org 1600

Personal Services and

Employee Benefits.....	00100	\$	118,794
Unclassified (R)	09900		8,352
Current Expenses (R)	13000		781,584
BRIM Premium.....	91300		<u>34,500</u>
Total.....		\$	943,230

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100) is \$95,000 for the Salary of the Secretary of State.

17 - State Election Commission

(W.V. Code Chapter 3)

Fund 0160 FY 2024 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 2024 Org 0201

Personal Services and		
Employee Benefits.....	00100	\$ 479,079
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	153,400
Unclassified.....	09900	9,177
Current Expenses	13000	85,009
Repairs and Alterations	06400	100
Equipment	07000	1,000
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	<u>6,736</u>
Total.....		\$ 15,616,147

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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 2024 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 2024 Org 0209

Personal Services and		
Employee Benefits.....	00100	\$ 66,135
Unclassified.....	09900	1,400
Current Expenses	13000	53,563
GAAP Project (R)	12500	650,070
BRIM Premium.....	91300	<u>20,675</u>
Total.....		\$ 791,843

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

21 - Division of General Services

(W.V. Code Chapter 5A)

Fund 0230 FY 2024 Org 0211

Personal Services and		
Employee Benefits.....	00100	\$ 2,985,695
Unclassified.....	09900	20,000

Current Expenses	13000	1,148,349
Repairs and Alterations	06400	500
Equipment	07000	5,000
Fire Service Fee	12600	14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds	37100	68,000
Capital Outlay, Repairs and Equipment (R)	58900	23,660,888
BRIM Premium	91300	129,983
Total		<u>\$ 28,032,415</u>

Any unexpended balance remaining in the appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) and Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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 2024 Org 0213

Personal Services and Employee Benefits	00100	\$ 1,105,767
Unclassified	09900	144
Current Expenses	13000	1,285
Repairs and Alterations	06400	200
BRIM Premium	91300	<u>6,922</u>

Total..... \$ 1,114,318

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 2024 Org 0215

Personal Services and		
Employee Benefits.....	00100	\$ 842,645
Unclassified.....	09900	12,032
Current Expenses	13000	440,247
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Buildings.....	25800	100
Other Assets.....	69000	100
Total.....		\$ 1,301,124

24 - Commission on Uniform State Laws

(W.V. Code Chapter 29)

Fund 0214 FY 2024 Org 0217

Current Expenses 13000 \$ 45,550

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 2024 Org 0219

Personal Services and		
Employee Benefits.....	00100	\$ 1,027,173
Unclassified.....	09900	1,000

Current Expenses	13000	145,295
Equipment	07000	50
BRIM Premium	91300	<u>8,740</u>
Total		\$ 1,182,258

26 - Ethics Commission

(W.V. Code Chapter 6B)

Fund 0223 FY 2024 Org 0220

Personal Services and		
Employee Benefits	00100	\$ 640,224
Unclassified	09900	2,200
Current Expenses	13000	105,501
Repairs and Alterations	06400	500
Other Assets	69000	100
BRIM Premium	91300	<u>4,574</u>
Total		\$ 753,099

27 - Public Defender Services

(W.V. Code Chapter 29)

Fund 0226 FY 2024 Org 0221

Personal Services and		
Employee Benefits	00100	\$ 1,921,914
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	23,014,199
Appointed Counsel Fees (R)	78800	12,691,113
BRIM Premium	91300	<u>10,575</u>
Total		\$ 38,102,841

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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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 - Committee for the Purchase of

Commodities and Services from the Handicapped

(W.V. Code Chapter 5A)

Fund 0233 FY 2024 Org 0224

Personal Services and

Employee Benefits.....	00100	\$	3,187
Current Expenses	13000		868
Total.....		\$	4,055

29 - Public Employees Insurance Agency

(W.V. Code Chapter 5)

Fund 0200 FY 2024 Org 0225

PEIA Subsidy.....	80100	\$	71,373,750

The Division of Highways, Division of Motor Vehicles, Public Service Commission, and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate

premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(W.V. Code Chapter 7)

Fund 0557 FY 2024 Org 0228

Forensic Medical Examinations (R)	68300	\$	568,607
Federal Funds/Grant Match (R)	74900		<u>112,555</u>
Total.....		\$	681,162

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

31 - Real Estate Division

(W.V. Code Chapter 5A)

Fund 0610 FY 2024 Org 0233

Personal Services and			
Employee Benefits.....	00100	\$	728,108
Unclassified.....	09900		124
Current Expenses	13000		137,381
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
BRIM Premium.....	91300		<u>9,784</u>
Total.....		\$	877,997

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(W.V. Code Chapter 19)

Fund 0250 FY 2024 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 4,987,129
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	111,674
Unclassified.....	09900	21,435
Current Expenses	13000	558,024
Repairs and Alterations	06400	80,000
BRIM Premium.....	91300	98,754
Total.....		<u>\$ 5,857,016</u>

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

33 - Geological and Economic Survey

(W.V. Code Chapter 29)

Fund 0253 FY 2024 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 1,705,320
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	112,753
Unclassified.....	09900	27,678
Current Expenses	13000	51,524
Repairs and Alterations	06400	968
Mineral Mapping System (R)	20700	1,136,567
BRIM Premium.....	91300	24,486
Total.....		<u>\$ 3,059,296</u>

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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.

34 - Division of Labor

(W.V. Code Chapters 21 and 47)

Fund 0260 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 1,666,653
Current Expenses	13000	227,000
Repairs and Alterations.....	06400	28,000
Equipment.....	07000	15,000
BRIM Premium.....	91300	8,500
Total.....		\$ 1,945,153

35 - Division of Natural Resources

(W.V. Code Chapter 20)

Fund 0265 FY 2024 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 20,400,532
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	113,188
Unclassified.....	09900	184,711
Current Expenses	13000	529,654
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
Buildings (R).....	25800	100
Capital Outlay – Parks (R).....	28800	6,000,000
Litter Control Conservation		
Officers	56400	151,662
Upper Mud River Flood		
Control (R).....	65400	175,210
Other Assets	69000	100
Land (R).....	73000	100

Law Enforcement.....	80600	2,628,555
BRIM Premium.....	91300	<u>45,141</u>
Total.....		\$ 30,229,153

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), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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.

36 - Division of Miners' Health, Safety and Training

(W.V. Code Chapter 22A)

Fund 0277 FY 2024 Org 0314

Personal Services and		
Employee Benefits.....	00100	\$ 9,924,652
Unclassified.....	09900	111,016
Current Expenses	13000	1,396,141
Coal Dust and Rock		
Dust Sampling	27000	499,261
BRIM Premium.....	91300	<u>80,668</u>
Total.....		\$ 12,011,738

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.

37 - Board of Coal Mine Health and Safety

(W.V. Code Chapter 22)

Fund 0280 FY 2024 Org 0319

Personal Services and

Employee Benefits.....	00100	\$	245,490
Unclassified.....	09900		3,480
Current Expenses	13000		118,138
Total.....		\$	367,108

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.

38 - WorkForce West Virginia

(W.V. Code Chapter 23)

Fund 0572 FY 2024 Org 0323

Personal Services and

Employee Benefits.....	00100	\$	51,433
Unclassified.....	09900		584
Current Expenses	13000		6,456
Total.....		\$	58,473

*39 - Department of Commerce –**Office of the Secretary*

(W.V. Code Chapter 19)

Fund 0606 FY 2024 Org 0327

Personal Services and

Employee Benefits.....	00100	\$	1,417,755
Salary and Benefits of			
Secretary and Agency Heads	00201		153,750
Unclassified.....	09900		1,490
Current Expenses	13000		353,147
Total.....		\$	1,926,142

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

(W.V. Code Chapter 18)

Fund 0310 FY 2024 Org 0932

Personal Services and

Employee Benefits.....	00100	\$	12,317,698
Current Expenses	13000		558,815
Independent Living Services.....	00900		429,418
Workshop Development	16300		1,817,427
Supported			
Extended Services.....	20600		77,960
Ron Yost Personal			
Assistance Fund	40700		333,828
Employment Attendant			
Care Program	59800		131,575
BRIM Premium.....	91300		77,464
Total.....		\$	15,744,185

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*41 - Department of Tourism –**Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 0246 FY 2024 Org 0304

Tourism – Brand Promotion (R)	61803	\$	3,000,000
Tourism – Public Relations (R)	61804		1,500,000

Tourism – Events and Sponsorships (R).....	61805	500,000
Tourism – Industry Development (R)	61806	500,000
State Parks and Recreation Advertising (R)	61900	<u>1,500,000</u>
Total.....		\$ 7,000,000

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), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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

DEPARTMENT OF ECONOMIC DEVELOPMENT

42 - Department of Economic Development –

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 0256 FY 2024 Org 0307

Personal Services and Employee Benefits.....	00100	\$ 4,261,881
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
Marshall University Research Corporation	xxxxx	500,000

Global Economic Development

Partnerships (R)	20201	150,000
Guaranteed Work Force Grant (R).....	24200	988,088
Directed Transfer	70000	15,000,000
Mainstreet Program.....	79400	173,222
BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
Total.....		\$ 27,765,437

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), and Guaranteed Work Force Grant (fund 0256, appropriation 24200) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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

43 - State Board of Education –

School Lunch Program

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

Fund 0303 FY 2024 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 368,331
Current Expenses	13000	<u>2,118,865</u>
Total.....		\$ 2,487,196

44 - State Board of Education –

State Department of Education

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

Fund 0313 FY 2024 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 4,825,679
Unclassified (R)	09900	420,000
Current Expenses (R)	13000	4,580,000
Teachers' Retirement		
Savings Realized.....	09500	37,543,000
Center for Professional		
Development (R)	11500	150,000
Increased Enrollment	14000	4,250,000
Safe Schools.....	14300	4,509,127
Attendance Incentive Bonus (R).....	15001	2,262,389
National Teacher Certification (R)	16100	300,000
Jobs & Hope –		
Drug Prevention Education.....	21901	5,000,000

Technology Repair and Modernization.....	29800	951,003
Hope Scholarship Program	30401	23,970,739
HVAC Technicians	35500	541,248
Early Retirement Notification Incentive	36600	300,000
MATH Program	36800	386,532
Assessment Programs (R).....	39600	3,953,638
Benedum Professional Development Collaborative (R)	42700	429,775
Governor's Honors Academy (R)	47800	1,059,270
21 st Century Fellows	50700	274,899
English as a Second Language.....	52800	96,000
Teacher Reimbursement	57300	297,188
Hospitality Training	60000	277,954
Youth in Government	61600	100,000
High Acuity Special Needs (R).....	63400	1,500,000
Foreign Student Education.....	63600	101,445
State Board of Education Administrative Costs	68400	285,887
IT Academy (R)	72100	500,000
Early Literacy Program.....	75600	5,717,133
School Based Truancy Prevention (R).....	78101	2,063,740
Communities in Schools (R).....	78103	4,905,755
Mastery Based Education	78104	125,000
Mountain State Digital Literacy Program	86401	415,500
21 st Century Learners (R).....	88600	1,821,209
BRIM Premium.....	91300	342,859
21 st Century Assessment and Professional Development	93100	2,012,157
21 st Century Technology Infrastructure Network Tools and Support (R)	93300	9,885,992
Special Olympic Games.....	96600	25,000
Educational Program Allowance	99600	516,250
Total.....		<u>\$ 126,696,368</u>

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 313, 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), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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.

45 - State Board of Education –

Aid for Exceptional Children

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

Fund 0314 FY 2024 Org 0402

Special Education – Counties	15900	\$	7,425,757
Special Education – Institutions.....	16000		4,161,325
Education of Juveniles Held in Predispositional Juvenile Detention Centers	30200		702,582
Education of Institutionalized Juveniles and Adults (R).....	47200		<u>21,780,531</u>
Total.....		\$	34,070,195

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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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.

*46 - State Board of Education –**State Aid to Schools*

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

Fund 0317 FY 2024 Org 0402

Other Current Expenses	02200	\$ 180,202,533
Advanced Placement.....	05300	635,238
Professional Educators.....	15100	940,631,329
Service Personnel.....	15200	350,277,867
Fixed Charges	15300	111,993,457
Transportation	15400	87,405,241
Improved Instructional Programs	15600	57,738,239
Professional Student		
Support Services	65500	64,943,783
21 st Century Strategic		
Technology Learning Growth.....	93600	37,971,242
Teacher and Leader Induction.....	93601	<u>17,006,361</u>
Basic Foundation Allowances.....		1,848,805,290
Less Local Share		(533,898,170)
Adjustments		<u>(1,679,011)</u>
Total Basic State Aid		1,313,228,109
Public Employees'		
Insurance Matching	01200	218,605,348
Teachers' Retirement System	01900	70,894,634
School Building Authority	45300	0
Retirement Systems – Unfunded		
Liability.....	77500	<u>285,469,999</u>
Total.....		\$ 1,888,198,090

*47 - State Board of Education –**School Building Authority*

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

Fund 0318 FY 2024 Org 0404

School Building Authority	45300	\$ 36,000,000

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

48 - State Board of Education –

Vocational Division

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

Fund 0390 FY 2024 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,409,342
Unclassified.....	09900	268,800
Current Expenses	13000	883,106
Wood Products – Forestry		
Vocational Program	14600	82,713
Albert Yanni Vocational Program	14700	132,123
Vocational Aid	14800	24,540,570
Adult Basic Education	14900	5,468,396
Jobs & Hope (R)	14902	6,252,729
Program Modernization	30500	884,313
High School Equivalency		
Diploma Testing (R)	72600	812,028
FFA Grant Awards.....	83900	11,496
Pre-Engineering Academy Program	84000	265,294
Total.....		<u>\$ 41,010,910</u>

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901), Jobs and Hope (fund 0390, appropriation 14902), and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

49 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

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

Fund 0320 FY 2024 Org 0403

Personal Services and

Employee Benefits.....	00100	\$ 10,875,030
Unclassified (R)	09900	110,000
Current Expenses (R).....	13000	2,250,696
Repairs and Alterations.....	06400	164,675
Equipment	07000	77,000
Buildings (R).....	25800	45,000
Capital Outlay and		
Maintenance (R)	75500	1,670,000
BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 15,323,243

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY*50 - Division of Culture and History*

(W.V. Code Chapter 29)

Fund 0293 FY 2024 Org 0432

Personal Services and

Employee Benefits.....	00100	\$ 3,658,720
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	120,106
Unclassified (R)	09900	28,483
Current Expenses	13000	610,843
Repairs and Alterations.....	06400	1,000
Equipment	07000	1
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.....		\$ 5,090,714

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), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 WV Code.

51 - Library Commission

(W.V. Code Chapter 10)

Fund 0296 FY 2024 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 1,154,498
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	112,000
Current Expenses	13000	139,624
Repairs and Alterations	06400	6,500
Services to Blind & Handicapped.....	18100	161,717

BRIM Premium.....	91300	<u>18,205</u>
Total.....		\$ 1,592,544

52 - Educational Broadcasting Authority

(W.V. Code Chapter 10)

Fund 0300 FY 2024 Org 0439

Personal Services and		
Employee Benefits.....	00100	\$ 3,391,551
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.....		\$ 4,172,478

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

53 - Environmental Quality Board

(W.V. Code Chapter 20)

Fund 0270 FY 2024 Org 0311

Personal Services and		
Employee Benefits.....	00100	\$ 94,048
Current Expenses	13000	28,453
Repairs and Alterations.....	06400	800
Equipment.....	07000	500
Other Assets.....	69000	400
BRIM Premium.....	91300	<u>791</u>
Total.....		\$ 124,992

54 - Division of Environmental Protection

(W.V. Code Chapter 22)

Fund 0273 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 4,266,202
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Current Expenses	13000	85,816
Water Resources		
and Management.....	06800	585,133
Environmental Response		
and Cleanups.....	27101	91,888
Dam Safety.....	60700	253,074
West Virginia Stream		
Partners Program	63700	77,396
W.V. Contributions to		
River Commissions.....	77600	148,485
Office of Water Resources		
Non-Enforcement Activity	85500	<u>1,074,298</u>
Total.....		\$ 6,750,292

55 - Air Quality Board

(W.V. Code Chapter 16)

Fund 0550 FY 2024 Org 0325

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

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*56 - Department of Health and Human Resources –**Office of the Secretary*

(W.V. Code Chapter 5F)

Fund 0400 FY 2024 Org 0501

Personal Services and		
Employee Benefits.....	00100	\$ 389,301
Unclassified.....	09900	6,459
Current Expenses	13000	50,613
Commission for the Deaf and		
Hard of Hearing	70400	<u>234,018</u>
Total.....		\$ 680,391

*57 - Division of Health –**Central Office*

(W.V. Code Chapter 16)

Fund 0407 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 13,513,717
Unclassified.....	09900	671,795
Current Expenses	13000	5,388,459
Chief Medical Examiner (R).....	04500	10,684,766
State Aid for Local		
Basic Public Health Services	18400	17,285,283
Safe Drinking Water Program (R)	18700	1,942,818
Women, Infants and Children	21000	38,621
Early Intervention	22300	8,134,060
Cancer Registry.....	22500	219,600
Office of Drug Control Policy (R)	35401	567,875
Statewide EMS Program		
Support (R)	38300	1,722,828
Office of Medical Cannabis (R).....	42001	1,519,966

Black Lung Clinics	46700	170,885
Vaccine for Children	55100	341,261
Tuberculosis Control	55300	343,494
Maternal and Child Health		
Clinics, Clinicians and Medical		
Contracts and Fees (R)	57500	6,242,965
Epidemiology Support	62600	1,568,269
Primary Care Support	62800	1,241,505
Sexual Assault Intervention		
and Prevention	72300	2,000,000
Health Right Free Clinics	72700	4,250,000
Capital Outlay and		
Maintenance (R)	75500	70,000
Healthy Lifestyles	77800	902,808
Maternal Mortality Review	83400	51,660
Diabetes Education and Prevention	87300	97,125
BRIM Premium	91300	169,791
State Trauma and Emergency		
Care System	91800	1,950,095
WVU Charleston Poison		
Control Hotline	94400	712,942
Total		\$ 81,802,588

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis-Surplus (fund 0407, appropriation 42099), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), 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 xxxxx) the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Notwithstanding the provisions of Title I, section three of this bill, the Secretary of the Department of Health and Human Resources 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.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia AIDS Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$1,000,000 shall be used for the administration of the Telestroke program.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

58 - Consolidated Medical Services Fund

(W.V. Code Chapter 16)

Fund 0525 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 1,744,950
Current Expenses	13000	164,113
Behavioral Health Program (R)	21900	70,868,956
Institutional Facilities		
Operations (R)	33500	12,031,796
Substance Abuse Continuum		
of Care (R)	35400	1,840,000
Capital Outlay and		
Maintenance (R)	75500	0

BRIM Premium.....	91300	<u>53,249</u>
Total.....		\$ 86,703,064

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), Institutional Facilities Operations – Surplus (fund 0525, appropriation 63200), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Notwithstanding the provisions of Title I, section three of this bill, the Secretary of the Department of Health and Human Resources 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.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Recovery Point of Huntington.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2024, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to 10 percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) shall be transferred to 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.

59 - Division of Health –

West Virginia Drinking Water Treatment

(W.V. Code Chapter 16)

Fund 0561 FY 2024 Org 0506

West Virginia Drinking

Water Treatment Revolving

Fund-Transfer	68900	\$	647,500

The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund (fund 3386) or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund (fund 3387) as provided by Chapter 16 of the Code.

60 - Human Rights Commission

(W.V. Code Chapter 5)

Fund 0416 FY 2024 Org 0510

Personal Services and

Employee Benefits	00100	\$	1,044,845

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201		112,000

Unclassified	09900		4,024

Current Expenses	13000		331,304

BRIM Premium	91300		10,764

Total		\$	1,502,937

61 - Division of Human Services

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

Fund 0403 FY 2024 Org 0511

Personal Services and

Employee Benefits.....	00100	\$ 56,266,691
Unclassified.....	09900	5,688,944
Current Expenses	13000	12,240,425
Child Care Development.....	14400	3,138,536
Medical Services.....	18900	267,202,774
Social Services.....	19500	224,478,972
Family Preservation Program	19600	1,565,000
Family Resource Networks.....	27400	1,762,464
Domestic Violence Legal		
Services Fund.....	38400	400,000
James "Tiger" Morton		
Catastrophic Illness Fund	45500	373,424
I/DD Waiver.....	46600	108,541,736
Child Protective Services		
Case Workers.....	46800	30,347,953
Title XIX Waiver for Seniors.....	53300	13,593,620
WV Teaching Hospitals		
Tertiary/Safety Net	54700	6,356,000
In-Home Family Education.....	68800	1,000,000
WV Works Separate State Program.....	69800	1,535,000
Child Support Enforcement	70500	6,933,494
Temporary Assistance for Needy		
Families/Maintenance of Effort.....	70700	25,819,096
Child Care – Maintenance		
of Effort Match	70800	5,693,743
Grants for Licensed Domestic		
Violence Programs and		
Statewide Prevention	75000	2,500,000
Capital Outlay and		
Maintenance (R)	75500	11,875
Community Based Services and		
Pilot Programs for Youth.....	75900	1,000,000

Medical Services

Administrative Costs	78900	43,786,785
Traumatic Brain Injury Waiver.....	83500	800,000
Indigent Burials (R)	85100	1,550,000
CHIP Administrative Costs.....	85601	703,452
CHIP Services	85602	10,489,660
BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds.....	94000	2,596,000
Children's Trust Fund – Transfer.....	95100	220,000
PATH	95400	<u>7,265,970</u>
Total.....		\$ 844,754,256

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 Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Notwithstanding the provisions of Title I, section three of this bill, the Secretary of the Department of Health and Human Resources 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.

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.

Included in the above appropriation for Social Services (fund 0403, 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 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

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 Health and Human Resources.

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.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, 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 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

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

62 - Health Facilities –

Central Office

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and

Employee Benefits.....	00100	\$	1,535,120
Current Expenses	13000		360,480
BRIM Premium.....	91300		<u>1,242,849</u>
Total.....		\$	3,138,449

*63 - Health Facilities –**Health Facilities Capital Projects Fund*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

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 xxxx, xxxx, xxxx, xxxx, xxxx, xxxx, xxxx, xxxx and xxxx as needed.

*64 - Health Facilities –**Hopemont Hospital*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and

Employee Benefits	00100	\$	5,809,271
Contract Nursing.....	xxxxx		2,693,811
Repairs and Alterations.....	06400		1
Equipment	07000		1
Current Expenses	13000		1,873,082
Buildings	25800		1
Other Assets.....	69000		1
Capital Outlay and Maintenance.....	75500		<u>50,000</u>
Total.....		\$	10,426,168

*65 - Health Facilities –**Lakin Hospital*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services an		
Employee Benefits.....	00100	\$ 7,148,761
Contract Nursing.....	xxxxx	1,339,262
Repairs and Alterations.....	06400	1
Equipment.....	07000	1
Current Expenses	13000	2,363,676
Buildings.....	25800	1
Other Assets.....	69000	1
Capital Outlay and Maintenance.....	75500	<u>50,000</u>
Total.....		\$ 10,901,703

*66 - Health Facilities –**John Manchin Senior Health Care Center*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and		
Employee Benefits	00100	\$ 3,669,817
Contract Nursing.....	xxxxx	907,556
Repairs and Alterations.....	06400	1
Equipment.....	07000	1
Current Expenses	13000	1,471,878
Buildings.....	25800	1
Other Assets.....	69000	1
Capital Outlay and Maintenance.....	75500	<u>50,000</u>
Total.....		\$ 6,099,255

*67 - Health Facilities –**Jackie Withrow Hospital*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and		
Employee Benefits.....	00100	\$ 6,832,977
Contract Nursing.....	xxxxx	1,625,311
Repairs and Alterations.....	06400	1
Equipment.....	07000	1
Current Expenses	13000	2,655,893
Buildings.....	25800	1
Other Assets.....	69000	1
Capital Outlay and Maintenance.....	77550	<u>50,000</u>
Total.....		\$ 11,164,185

*68 - Health Facilities –**Welch Community Hospital*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and		
Employee Benefits	00100	\$ 14,925,683
Contract Nursing.....	xxxxx	2,576,401
Repairs and Alterations.....	06400	1
Equipment.....	07000	1
Current Expenses	13000	13,199,285
Buildings.....	25800	1
Other Assets.....	69000	1
Capital Outlay and Maintenance.....	77550	<u>50,000</u>
Total.....		\$ 30,751,373

*69 - Health Facilities –**William R. Sharpe Jr. Hospital*

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and		
Employee Benefits	00100	\$ 23,869,659
Contract Nursing	xxxxx	10,469,835
Repairs and Alterations	06400	1
Equipment	07000	1
Current Expenses	13000	10,280,300
Buildings	25800	1
Other Assets	69000	1
Capital Outlay and Maintenance	77550	50,000
Total		<u>\$ 44,669,798</u>

The above appropriation for Personal Services and Employee Benefits (fund xxxx, appropriation 00100) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013.

70 - Health Facilities –

Mildred Mitchell-Bateman Hospital

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and		
Employee Benefits	00100	\$ 24,011,880
Contract Nursing	xxxxx	6,457,520
Repairs and Alterations	06400	1
Equipment	07000	1
Current Expenses	13000	2,967,683
Buildings	25800	1
Other Assets	69000	1
Capital Outlay and Maintenance	77550	50,000
Total		<u>\$ 33,487,087</u>

The above appropriation for Personal Services and Employee Benefits (fund xxxx, appropriation 00100) contains prior year salary increases due to the Hartley court order in the amount of \$2,067,984.

71 - Health Facilities –

William R. Sharpe Jr. Hospital -

Transitional Living Facility

(W.V. Code Chapter 16)

Fund xxxx FY 2024 Org xxxx

Personal Services and		
Employee Benefits.....	00100	\$ 1,488,296
Contract Nursing	xxxxx	10,000
Repairs and Alterations.....	06400	1
Equipment	07000	1
Current Expenses	13000	171,794
Buildings	25800	1
Other Assets	69000	1
Capital Outlay and Maintenance.....	77550	<u>50,000</u>
Total.....		\$ 1,720,094

DEPARTMENT OF HOMELAND SECURITY

72 - Department of Homeland Security –

Office of the Secretary

(W.V. Code Chapter 5F)

Fund 0430 FY 2024 Org 0601

Personal Services and		
Employee Benefits.....	00100	\$ 677,939
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Unclassified (R)	09900	30,000
Current Expenses	13000	91,636
Repairs and Alterations.....	06400	500
Equipment	07000	500
Fusion Center (R).....	46900	2,973,178
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.....		\$ 4,196,816

Any unexpended balances remaining in the appropriations for Unclassified (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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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).

73 - Division of Emergency Management

(W.V. Code Chapter 15)

Fund 0443 FY 2024 Org 0606

Personal Services and Employee Benefits.....	00100	\$ 2,228,903
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	61,250
Unclassified.....	09900	21,022
Current Expenses	13000	51,065
Repairs and Alterations.....	06400	600
Radiological Emergency Preparedness	55400	17,052
SIRN....	55401	600,000
Federal Funds/Grant Match (R)	74900	1,488,195
Mine and Industrial Accident Rapid Response Call Center.....	78100	504,586
Early Warning Flood System (R)	87700	1,298,686

BRIM Premium.....	91300	<u>96,529</u>
Total.....		\$ 6,367,888

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

74 - Division of Corrections and Rehabilitation –

West Virginia Parole Board

(W.V. Code Chapter 62)

Fund 0440 FY 2024 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 313,598
Unclassified.....	09900	10,000
Current Expenses	13000	334,440
Salaries of Members of		
West Virginia Parole Board.....	22700	758,847
BRIM Premium.....	91300	<u>6,149</u>
Total.....		\$ 1,423,034

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.

75 - Division of Corrections and Rehabilitation –

Central Office

(W.V. Code Chapter 15A)

Fund 0446 FY 2024 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 253,306

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	126,000
Current Expenses	13000	<u>2,400</u>
Total		\$ 381,706

*76 - Division of Corrections and Rehabilitation –**Correctional Units*

(W.V. Code Chapter 15A)

Fund 0450 FY 2024 Org 0608

Employee Benefits	01000	\$ 1,258,136
Unclassified.....	09900	1,578,800
Current Expenses (R).....	13000	57,690,483
Children's Protection Act (R)	09000	838,437
Facilities Planning and		
Administration (R).....	38600	1,274,200
Charleston Correctional Center	45600	3,656,034
Beckley Correctional Center.....	49000	2,729,359
Anthony Correctional Center	50400	6,447,805
Huttonsville Correctional Center	51400	20,401,425
Northern Correctional Center.....	53400	8,347,868
Inmate Medical Expenses (R).....	53500	62,226,064
Pruntytown Correctional Center	54300	9,309,903
Corrections Academy.....	56900	2,038,045
Information Technology Services.....	59901	2,759,052
Martinsburg Correctional Center	66300	4,604,918
Parole Services.....	68600	6,247,435
Special Services	68700	6,071,838
Investigative Services	71600	3,595,775
Capital Outlay and		
Maintenance (R)	75500	2,000,000
Salem Correctional Center	77400	12,013,827
McDowell County		
Correctional Center.....	79000	2,542,590
Stevens Correctional Center	79100	7,863,195
Parkersburg Correctional Center.....	82800	6,669,363
St. Mary's Correctional Center	88100	15,556,307

Denmar Correctional Center	88200	5,531,288
Ohio County Correctional Center	88300	2,254,692
Mt. Olive Correctional Complex	88800	23,580,960
Lakin Correctional Center.....	89600	11,523,549
BRIM Premium.....	91300	<u>2,527,657</u>
Total.....		\$ 293,139,005

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

77 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(W.V. Code Chapter 15A)

Fund 0570 FY 2024 Org 0608

Statewide Reporting Centers.....	26200	\$	7,201,627
Robert L. Shell Juvenile Center	26700		2,761,055
Resident Medical Expenses (R)	53501		3,604,999
Central Office.....	70100		1,839,891
Capital Outlay and			
Maintenance (R)	75500		250,000
Gene Spadaro Juvenile Center	79300		2,901,456
BRIM Premium.....	91300		115,967
Kenneth Honey Rubenstein			
Juvenile Center (R).....	98000		6,116,258
Vicki Douglas Juvenile Center	98100		2,544,867
Northern Regional Juvenile Center.....	98200		2,876,302
Lorrie Yeager Jr. Juvenile Center	98300		2,636,094
Sam Perdue Juvenile Center	98400		2,853,458
Tiger Morton Center	98500		2,863,241
Donald R. Kuhn Juvenile Center	98600		5,508,620
J.M. "Chick" Buckbee			
Juvenile Center	98700		<u>2,708,143</u>
Total.....		\$	46,781,978

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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).

78 - West Virginia State Police

(W.V. Code Chapter 15)

Fund 0453 FY 2024 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 76,151,187
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	139,300
Children's Protection Act	09000	1,069,244
Current Expenses	13000	10,384,394
Repairs and Alterations	06400	450,523
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	15,519,212
Handgun Administration Expense	74700	83,647
Capital Outlay and		
Maintenance (R)	75500	250,000
Retirement Systems –		
Unfunded Liability.....	77500	9,984,000
Automated Fingerprint		
Identification System.....	89800	2,243,491
BRIM Premium.....	91300	5,743,921
Total.....		<u>\$ 126,535,617</u>

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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.

79 - Fire Commission

(W.V. Code Chapter 29)

Fund 0436 FY 2024 Org 0619

Current Expenses	13000	\$	63,061

80 - Division of Protective Services

(W.V. Code Chapter 5F)

Fund 0585 FY 2024 Org 0622

Personal Services and			
Employee Benefits.....	00100	\$	3,315,050
Unclassified (R)	09900		21,991
Current Expenses	13000		422,981
Repairs and Alterations.....	06400		8,500
Equipment (R).....	07000		64,171
BRIM Premium.....	91300		<u>32,602</u>
Total.....		\$	3,865,295

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

81 - Division of Administrative Services -

Criminal Justice Fund

(W.V. Code Chapter 15A)

Fund 0546 FY 2024 Org 0623

Personal Services and			
Employee Benefits.....	00100	\$	609,397
Current Expenses	13000		233,360
Repairs and Alterations.....	06400		1,804
Child Advocacy Centers (R).....	45800		2,211,436
Community Corrections (R)	56100		4,602,566
Statistical Analysis Program.....	59700		50,395
Sexual Assault Forensic			
Examination Commission (R)	71400		280,977
Qualitative Analysis and Training			

for Youth Services (R).....	76200	86,829
Law Enforcement Professional Standards.....	83800	175,630
Justice Reinvestment Initiative (R).....	89501	2,338,707
BRIM Premium.....	91300	<u>2,123</u>
Total.....		\$ 10,593,224

Any unexpended balances remaining in the appropriations for 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 xxxxx) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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.

82 - Division of Administrative Services

(W.V. Code Chapter 15A)

Fund 0619 FY 2024 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 5,447,439
Unclassified.....	09900	50,000
Current Expenses	13000	<u>555,000</u>
Total.....		\$ 6,052,439

DEPARTMENT OF REVENUE*83 - Office of the Secretary*

(W.V. Code Chapter 11)

Fund 0465 FY 2024 Org 0701

Personal Services and		
Employee Benefits.....	00100	\$ 374,950
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Unclassified.....	09900	437
Current Expenses	13000	81,594
Repairs and Alterations.....	06400	1,262
Equipment.....	07000	8,000
Other Assets.....	69000	500
Total.....		<u>\$ 634,743</u>

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

84 - Tax Division

(W.V. Code Chapter 11)

Fund 0470 FY 2024 Org 0702

Personal Services and		
Employee Benefits (R)	00100	\$ 19,746,554
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	147,000
Unclassified (R)	09900	174,578
Current Expenses (R).....	13000	6,823,635
Repairs and Alterations.....	06400	10,150
Equipment.....	07000	54,850
Tax Technology Upgrade	09400	3,700,000
Multi State Tax Commission	65300	77,958
Other Assets.....	69000	10,000

BRIM Premium.....	91300	<u>15,579</u>
Total.....		\$ 30,760,304

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

85 - State Budget Office

(W.V. Code Chapter 11B)

Fund 0595 FY 2024 Org 0703

Personal Services and		
Employee Benefits.....	00100	\$ 852,844
Unclassified (R)	09900	9,200
Current Expenses (R)	13000	<u>119,449</u>
Total.....		\$ 981,493

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

86 - West Virginia Office of Tax Appeals

(W.V. Code Chapter 11)

Fund 0593 FY 2024 Org 0709

Personal Services and		
Employee Benefits.....	00100	\$ 949,360
Unclassified.....	09900	5,255
Current Expenses (R)	13000	229,374
BRIM Premium.....	91300	<u>3,062</u>
Total.....		\$ 1,187,051

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

87 - State Athletic Commission

(W.V. Code Chapter 29)

Fund 0523 FY 2024 Org 0933

Personal Services and		
Employee Benefits.....	00100	\$ 7,200
Current Expenses	13000	<u>29,611</u>
Total.....		\$ 36,811

DEPARTMENT OF TRANSPORTATION

88 - Division of Multimodal Transportation Facilities –

State Rail Authority

(W.V. Code Chapter 17)

Fund 0506 FY 2024 Org 0810

Personal Services and		
Employee Benefits.....	00100	\$ 378,891
Current Expenses	13000	287,707
Other Assets (R).....	69000	1,270,019
BRIM Premium.....	91300	<u>201,541</u>
Total.....		\$ 2,138,158

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

89 - Division of Multimodal Transportation Facilities –

Public Transit

(W.V. Code Chapter 17)

Fund 0510 FY 2024 Org 0810

Equipment (R).....	07000	\$	100,000
Current Expenses (R).....	13000		2,242,989
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		50,000
Total.....		\$	2,492,989

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

From the above appropriation for Current Expenses (fund 0510, appropriation 13000), \$30,000 shall be used to support the Sistersville Ferry.

90 - Division of Multimodal Transportation Facilities –

(W.V. Code Chapter 17)

Fund 0580 FY 2024 Org 0810

Personal Services and			
Employee Benefits (R)	00100	\$	700,000
Current Expenses (R).....	13000		750,000
BRIM Premium.....	91300		7,500
Total.....		\$	1,457,500

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0580, appropriation 00100), Current Expenses (fund 0580, appropriation 13000) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

*91 - Division of Multimodal Transportation Facilities –**Aeronautics Commission*

(W.V. Code Chapter 17)

Fund 0582 FY 2024 Org 0810

Personal Services and

Employee Benefits.....	00100	\$	235,249
Current Expenses (R).....	13000		591,839
Repairs and Alterations.....	06400		100
BRIM Premium.....	91300		4,438
Total.....		\$	831,626

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

DEPARTMENT OF VETERANS' ASSISTANCE*92 - Department of Veterans' Assistance*

(W.V. Code Chapter 9A)

Fund 0456 FY 2024 Org 0613

Personal Services and

Employee Benefits.....	00100	\$	2,431,023
Salary and Benefits of Cabinet			
Secretary and Agency Heads	00201		110,880
Unclassified.....	09900		20,000
Current Expenses	13000		161,450
Repairs and Alterations.....	06400		5,000
Veterans' Field Offices (R).....	22800		405,550
Veterans' Nursing Home (R)	28600		7,989,445
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
Directed Transer.....	70000		1,500,000
Veterans' Cemetery (R)	80800		408,896

BRIM Premium.....	91300	<u>50,000</u>
Total.....		\$ 13,694,259

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

The above appropriation for Directed Transfer (fund 0456, appropriation 70000) shall be transferred to Veterans' Facilitates Support Fund (fund 6703).

93 - Department of Veterans' Assistance –

Veterans' Home

(W.V. Code Chapter 9A)

Fund 0460 FY 2024 Org 0618

Personal Services and

Employee Benefits.....	00100	\$ 1,439,267
Current Expenses (R).....	13000	46,759
Veterans Outreach Programs	61700	<u>206,495</u>
Total.....		\$ 1,695,785

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0460, appropriation 13000) at the close of fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

BUREAU OF SENIOR SERVICES*94 - Bureau of Senior Services*

(W.V. Code Chapter 29)

Fund 0420 FY 2024 Org 0508

Transfer to Division of Human

Services for Health Care

and Title XIX Waiver

for Senior Citizens 53900 \$ 10,839,825

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***95 - West Virginia Council for**Community and Technical College Education –**Control Account*

(W.V. Code Chapter 18B)

Fund 0596 FY 2024 Org 0420

West Virginia Council for

Community and

Technical Education (R) 39200 \$ 751,721

Transit Training Partnership 78300 34,293

Community College

Workforce Development (R) 87800 2,789,705

College Transition Program.....	88700	278,222
West Virginia Advance		
Workforce Development (R)	89300	3,123,576
Technical Program		
Development (R)	89400	1,800,735
WV Invests Grant Program (R)	89401	<u>7,040,309</u>
Total.....		\$ 15,818,561

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

96 - Mountwest Community and Technical College

(W.V. Code Chapter 18B)

Fund 0599 FY 2024 Org 0444

Mountwest Community and

Technical College	48700	\$ 6,903,571

97 - New River Community and Technical College

(W.V. Code Chapter 18B)

Fund 0600 FY 2024 Org 0445

New River Community and

Technical College	35800	\$ 6,302,132

98 - Pierpont Community and Technical College

(W.V. Code Chapter 18B)

Fund 0597 FY 2024 Org 0446

Pierpont Community and
Technical College 93000 \$ 8,370,981

99 - Blue Ridge Community and Technical College

(W.V. Code Chapter 18B)

Fund 0601 FY 2024 Org 0447

Blue Ridge Community and
Technical College 88500 \$ 8,416,425

100 - West Virginia University at Parkersburg

(W.V. Code Chapter 18B)

Fund 0351 FY 2024 Org 0464

West Virginia University –
Parkersburg 47100 \$ 11,193,778

101 - Southern West Virginia Community and Technical College

(W.V. Code Chapter 18B)

Fund 0380 FY 2024 Org 0487

Southern West Virginia
Community and
Technical College 44600 \$ 8,849,656

102 - West Virginia Northern Community and Technical College

(W.V. Code Chapter 18B)

Fund 0383 FY 2024 Org 0489

West Virginia Northern
Community and
Technical College 44700 \$ 7,818,075

103 - Eastern West Virginia Community and Technical College
(W.V. Code Chapter 18B)

Fund 0587 FY 2024 Org 0492

Eastern West Virginia Community and Technical College	41200	\$	2,349,856

104 - BridgeValley Community and Technical College
(W.V. Code Chapter 18B)

Fund 0618 FY 2024 Org 0493

BridgeValley Community and Technical College	71700	\$	8,629,476

HIGHER EDUCATION POLICY COMMISSION

105 - Higher Education Policy Commission –

Administration –

Control Account

(W.V. Code Chapter 18B)

Fund 0589 FY 2024 Org 0441

Personal Services and			
Employee Benefits.....	00100	\$	2,845,271
Current Expenses	13000		1,096,902
RHI Program and Site Support –			
RHEP Program			
Administration (R).....	03700		80,000
Mental Health Provider			
Loan Repayment (R).....	11301		330,000
Higher Education Grant Program	16400		40,619,864
Tuition Contract Program (R).....	16500		1,225,676

Underwood-Smith Scholarship		
Program-Student Awards.....	16700	628,349
Facilities Planning and		
Administration	38600	1,760,254
Higher Education System		
Initiatives	48801	1,640,884
PROMISE Scholarship – Transfer	80000	18,500,000
HEAPS Grant Program (R).....	86700	5,020,954
Health Professionals’ Student		
Loan Program (R).....	86701	547,470
Dual Enrollment Program	xxxxx	4,200,000
BRIM Premium.....	91300	17,817
Total.....		<u>\$ 78,513,441</u>

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), HEAPS Grant Program (fund 0589, appropriation 86700), and Health Professionals’ Student Loan Program (fund 0589, appropriation 86701) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 xxxxx) shall be used for the dual enrollment program established by House Bill 2005 during the 2023 Regular Session.

106 - West Virginia University –

School of Medicine

Medical School Fund

(W.V. Code Chapter 18B)

Fund 0343 FY 2024 Org 0463

WVU School of Health		
Science – Eastern Division	05600	\$ 2,332,926
WVU – School of Health Sciences	17400	15,840,755
WVU – School of Health		
Sciences – Charleston		
Division.....	17500	2,424,011
Rural Health Outreach		
Programs (R).....	37700	168,616
West Virginia University		
School of Medicine		
BRIM Subsidy	46000	<u>1,203,087</u>
Total.....		\$ 21,969,395

Any unexpended balances remaining in the appropriations for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

107 - West Virginia University –

General Administrative Fund

(W.V. Code Chapter 18B)

Fund 0344 FY 2024 Org 0463

West Virginia University	45900	\$	92,753,136
Jackson's Mill	46100		510,382
West Virginia University Institute of Technology	47900		8,578,613
State Priorities – Brownfield Professional Development	53100		816,556
West Virginia University Land Grant Match	xxxxx		8,549,644
Energy Express	86100		382,935
West Virginia University – Potomac State	99400		4,880,803
Total		\$	116,472,069

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.

*108 - Marshall University –**School of Medicine*

(W.V. Code Chapter 18B)

Fund 0347 FY 2024 Org 0471

Marshall Medical School	17300	\$	7,750,340
Rural Health Outreach Programs (R)	37700		158,970
Forensic Lab (R)	37701		227,415
Center for Rural Health (R)	37702		164,735
Marshall University Medical School BRIM Subsidy	44900		872,612
Total		\$	9,174,072

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

109 - Marshall University –

General Administration Fund

(W.V. Code Chapter 18B)

Fund 0348 FY 2024 Org 0471

Marshall University	44800	\$	50,873,019
Luke Lee Listening Language and Learning Lab (R).....	44801		154,576
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
Marshall University Minority Health Institute.....	xxxxx		100,000
WV Autism Training Center (R)	93200		<u>1,922,515</u>
Total.....		\$	54,114,147

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), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

110 - West Virginia School of Osteopathic Medicine

(W.V. Code Chapter 18B)

Fund 0336 FY 2024 Org 0476

West Virginia School of Osteopathic Medicine	17200	\$	5,402,148
Rural Health Outreach Programs (R).....	37700		171,672
West Virginia School of Osteopathic Medicine BRIM Subsidy	40300		153,405
Rural Health Initiative – Medical Schools Support	58100		<u>408,713</u>
Total.....		\$	6,135,938

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

111 - Bluefield State University

(W.V. Code Chapter 18B)

Fund 0354 FY 2024 Org 0482

Bluefield State University.....	40800	\$	6,855,771

112 - Concord University

(W.V. Code Chapter 18B)

Fund 0357 FY 2024 Org 0483

Concord University	41000	\$	11,170,362

113 - Fairmont State University

(W.V. Code Chapter 18B)

Fund 0360 FY 2024 Org 0484

Fairmont State University	41400	\$	19,961,302

114 - Glenville State University

(W.V. Code Chapter 18B)

Fund 0363 FY 2024 Org 0485

Glenville State University.....	42800	\$	7,071,784

115 - Shepherd University

(W.V. Code Chapter 18B)

Fund 0366 FY 2024 Org 0486

Shepherd University.....	43200	\$	13,374,828

116 - West Liberty University

(W.V. Code Chapter 18B)

Fund 0370 FY 2024 Org 0488

West Liberty University.....	43900	\$	9,964,386

117 - West Virginia State University

(W.V. Code Chapter 18B)

Fund 0373 FY 2024 Org 0490

West Virginia State University	44100	\$	11,700,408
Healthy Grandfamilies (R).....	62101		800,000
West Virginia State University			
Land Grant Match.....	95600		<u>4,350,192</u>
Total.....		\$	16,850,600

Any unexpended balance remaining in the appropriation for Healthy Grandfamilies (fund 0373, appropriation 62101) at the close of fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

*118 - Higher Education Policy Commission –**Administration -**West Virginia Network for Educational Telecomputing (WVNET)*

(W.V. Code Chapter 18B)

Fund 0551 FY 2024 Org 0495

WVNET 16900 \$ 1,873,368

MISCELLANEOUS BOARDS AND COMMISSIONS*119 - Adjutant General –**State Militia*

(W.V. Code Chapter 15)

Fund 0433 FY 2024 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		3,432,008
Military Authority (R).....	74800		6,415,000
Drug Enforcement and Support	74801		<u>1,558,845</u>
Total.....		\$	18,268,870

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 \$3,453,019 to the Mountaineer Challenge Academy to meet anticipated program demand.

120 - Adjutant General –

Military Fund

(W.V. Code Chapter 15)

Fund 0605 FY 2024 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)	<u>\$ 4,874,575,878</u>

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 2024.

DEPARTMENT OF TRANSPORTATION

121 - Division of Motor Vehicles

(W.V. Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2024 Org 0802

	Appro-	State
	priation	Road
		Fund
Personal Services and		
Employee Benefits.....	00100	\$ 40,182,297

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	129,500
Current Expenses	13000	22,556,730
Repairs and Alterations	06400	144,000
Equipment	07000	1,080,000
Buildings	25800	10,000
Other Assets	69000	2,480,000
BRIM Premium	91300	110,000
Total		\$ 66,692,527

122 - Division of Highways

(W.V. Code Chapters 17 and 17C)

Fund 9017 FY 2024 Org 0803

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	\$ 200,000
Debt Service	04000	138,000,000
Maintenance	23700	553,773,844
Inventory Revolving	27500	4,000,000
Equipment Revolving	27600	51,250,386
General Operations	27700	181,700,457
Interstate Construction	27800	200,000,000
Other Federal Aid Programs	27900	350,000,000
Appalachian Programs	28000	150,000,000
Highway Litter Control	28200	1,650,000
Total		\$ 1,630,574,687

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the 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 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)	<u>\$ 1,697,782,874</u>

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 2024.

LEGISLATIVE

123 - Crime Victims Compensation Fund

(W.V. Code Chapter 14)

Fund 1731 FY 2024 Org 2300

	Appro- priation	Other Funds
Personal Services and		
Employee Benefits.....00100	\$	498,020
Current Expenses 13000		133,903
Repairs and Alterations.....06400		1,000
Economic Loss Claim		
Payment Fund 33400		2,000,000

Other Assets.....	69000		<u>3,700</u>
Total.....		\$	2,636,623

JUDICIAL

124 - Supreme Court –

Court Advanced Technology Subscription Fund

(W.V. Code Chapter 51)

Fund 1704 FY 2024 Org 2400

Current Expenses	13000	\$	100,000

125 - Supreme Court –

Adult Drug Court Participation Fund

(W.V. Code Chapter 62)

Fund 1705 FY 2024 Org 2400

Current Expenses	13000	\$	200,000

126 - Supreme Court –

Family Court Fund

(W.V. Code Chapter 51)

Fund 1763 FY 2024 Org 2400

Current Expenses	13000	\$	1,050,000

127 - Supreme Court –

Court Facilities Maintenance Fund

(W.V. Code Chapter 51)

Fund 1766 FY 2024 Org 2400

Current Expenses	13000	\$	250,000

Repairs and Alterations.....	06400	<u>250,000</u>
Total.....		\$ 500,000

EXECUTIVE*128 - Governor's Office –**Minority Affairs Fund*

(W.V. Code Chapter 5)

Fund 1058 FY 2024 Org 0100

Personal Services and		
Employee Benefits.....	00100	\$ 236,517
Current Expenses	13000	453,200
Martin Luther King, Jr.		
Holiday Celebration.....	03100	<u>8,926</u>
Total.....		\$ 698,643

*129 - Auditor's Office –**Grant Recovery Fund*

(W.V. Code Chapter 12)

Fund 1205 FY 2024 Org 1200

Repairs and Alterations.....	06400	\$ 2,000
Equipment	07000	7,000
Current Expenses	13000	<u>191,000</u>
Total.....		\$ 200,000

*130 - Auditor's Office –**Land Operating Fund*

(W.V. Code Chapters 11A, 12, and 36)

Fund 1206 FY 2024 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 863,144

Unclassified.....	09900	15,139
Current Expenses	13000	715,291
Repairs and Alterations.....	06400	2,600
Equipment.....	07000	426,741
Cost of Delinquent Land Sale	76800	<u>1,841,168</u>
Total.....		\$ 3,864,083

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.

131 - Auditor's Office –

Local Government Purchasing Card Expenditure Fund

(W.V. Code Chapter 6)

Fund 1224 FY 2024 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 653,525
Current Expenses	13000	282,030
Repairs and Alterations.....	06400	6,000
Equipment.....	07000	10,805
Other Assets.....	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total.....		\$ 4,502,360

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.

*132 - Auditor's Office –**Securities Regulation Fund*

(W.V. Code Chapter 32)

Fund 1225 FY 2024 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 2,906,017
Unclassified.....	09900	31,866
Current Expenses	13000	1,463,830
Repairs and Alterations.....	06400	12,400
Equipment.....	07000	594,700
Other Assets.....	69000	<u>1,200,000</u>
Total.....		\$ 6,208,813

*133 - Auditor's Office –**Technology Support and Acquisition Fund*

(W.V. Code Chapter 12)

Fund 1233 FY 2024 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, org 1300) for expenditure for the purposes described in W.V. Code §12-3-10c.

*134 - Auditor's Office –**Purchasing Card Administration Fund*

(W.V. Code Chapter 12)

Fund 1234 FY 2024 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 3,284,440

Current Expenses	13000	2,303,622
Repairs and Alterations	06400	5,500
Equipment	07000	850,000
Other Assets	69000	508,886
Statutory Revenue Distribution.....	74100	<u>8,000,000</u>
Total.....		\$ 14,952,448

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.

135 - Auditor's Office –

Chief Inspector's Fund

(W.V. Code Chapter 6)

Fund 1235 FY 2024 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 3,786,468
Current Expenses	13000	765,915
Equipment	07000	<u>50,000</u>
Total.....		\$ 4,602,383

136 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(W.V. Code Chapters 12 and 33)

Fund 1239 FY 2024 Org 1200

Volunteer Fire Department		
Workers' Compensation		
Subsidy	83200	\$ 2,500,000

*137 - Department of Agriculture –**Agriculture Fees Fund*

(W.V. Code Chapter 19)

Fund 1401 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 2,634,966
Unclassified.....	09900	37,425
Current Expenses	13000	1,856,184
Repairs and Alterations.....	06400	158,500
Equipment.....	07000	436,209
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 5,133,284

*138 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

(W.V. Code Chapter 19)

Fund 1408 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 82,884
Unclassified.....	09900	10,476
Current Expenses	13000	<u>2,200,000</u>
Total.....		\$ 2,293,360

*139 - Department of Agriculture –**General John McCausland Memorial Farm Fund*

(W.V. Code Chapter 19)

Fund 1409 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 80,453
Unclassified.....	09900	2,100

Current Expenses	13000	89,500
Repairs and Alterations	06400	36,400
Equipment	07000	<u>15,000</u>
Total		\$ 223,453

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

140 - Department of Agriculture –

Farm Operating Fund

(W.V. Code Chapter 19)

Fund 1412 FY 2024 Org 1400

Personal Services and		
Employee Benefits	00100	\$ 908,740
Unclassified	09900	15,173
Current Expenses	13000	1,367,464
Repairs and Alterations	06400	388,722
Equipment	07000	399,393
Other Assets	69000	<u>20,000</u>
Total		\$ 3,099,492

141 - Department of Agriculture –

Capital Improvements Fund

(W.V. Code Chapter 19)

Fund 1413 FY 2024 Org 1400

Unclassified	09900	20,000
Current Expenses	13000	510,000
Repairs and Alterations	06400	250,000
Equipment	07000	350,000
Buildings	25800	670,000
Other Assets	69000	<u>200,000</u>
Total		\$ 2,000,000

*142 - Department of Agriculture –**Agriculture Development Fund*

(W.V. Code Chapter 19)

Fund 1423 FY 2024 Org 1400

Current Expenses	13000	\$	100,000

*143 - Department of Agriculture –**Donated Food Fund*

(W.V. Code Chapter 19)

Fund 1446 FY 2024 Org 1400

Personal Services and			
Employee Benefits.....	00100	\$	1,113,891
Unclassified.....	09900		45,807
Current Expenses	13000		3,410,542
Repairs and Alterations.....	06400		128,500
Equipment	07000		10,000
Other Assets	69000		27,000
Land	73000		250,000
Total.....		\$	4,985,740

*144 - Department of Agriculture –**Integrated Predation Management Fund*

(W.V. Code Chapter 7)

Fund 1465 FY 2024 Org 1400

Current Expenses	13000	\$	112,500

*145 - Department of Agriculture –**West Virginia Spay Neuter Assistance Fund*

(W.V. Code Chapter 19)

Fund 1481 FY 2024 Org 1400

Current Expenses 13000 \$ 1,000,000

*146 - Department of Agriculture –
Veterans and Warriors to Agriculture Fund*

(W.V. Code Chapter 19)

Fund 1483 FY 2024 Org 1400

Current Expenses 13000 \$ 7,500

*147 - Department of Agriculture –
State FFA-FHA Camp and Conference Center*

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

Fund 1484 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 1,251,311
Unclassified.....	09900	17,000
Current Expenses	13000	1,143,306
Repairs and Alterations.....	06400	82,500
Equipment.....	07000	76,000
Buildings.....	25800	1,000
Other Assets.....	69000	10,000
Land	73000	<u>1,000</u>
Total.....		\$ 2,582,117

*148 - Attorney General –
Antitrust Enforcement Fund*

(W.V. Code Chapter 47)

Fund 1507 FY 2024 Org 1500

Personal Services and		
Employee Benefits.....	00100	\$ 363,466
Current Expenses	13000	148,803
Repairs and Alterations.....	06400	1,000

Equipment	07000		1,000
Total		\$	514,269

*149 - Attorney General –**Preneed Burial Contract Regulation Fund*

(W.V. Code Chapter 47)

Fund 1513 FY 2024 Org 1500

Personal Services and			
Employee Benefits	00100	\$	234,077
Current Expenses	13000		54,615
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Total		\$	290,692

*150 - Attorney General –**Preneed Funeral Guarantee Fund*

(W.V. Code Chapter 47)

Fund 1514 FY 2024 Org 1500

Current Expenses	13000	\$	901,135

*151 - Secretary of State –**Service Fees and Collection Account*

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

Fund 1612 FY 2024 Org 1600

Personal Services and			
Employee Benefits	00100	\$	1,148,695
Unclassified	09900		4,524
Current Expenses	13000		8,036
Total		\$	1,161,255

*152 - Secretary of State –**General Administrative Fees Account*

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

Fund 1617 FY 2024 Org 1600

Personal Services and

Employee Benefits.....	00100	\$	3,131,478
Unclassified.....	09900		25,529
Current Expenses	13000		1,276,716
Technology Improvements	59900		<u>870,000</u>
Total.....		\$	5,303,723

DEPARTMENT OF ADMINISTRATION*153 - Department of Administration –**Office of the Secretary –**Tobacco Settlement Fund*

(W.V. Code Chapter 4)

Fund 2041 FY 2024 Org 0201

Tobacco Settlement Securitization

Trustee Passthru.....	65000	\$	80,000,000

*154 - Department of Administration –**Office of the Secretary –**Employee Pension and Health Care Benefit Fund*

(W.V. Code Chapter 18)

Fund 2044 FY 2024 Org 0201

Current Expenses	13000	\$	37,543,000

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

155 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(W.V. Code Chapter 5A)

Fund 2020 FY 2024 Org 0209

Personal Services and		
Employee Benefits.....	00100	\$ 1,586,318
Current Expenses	13000	<u>500,000</u>
Total.....		\$ 2,086,318

156 - Division of Information Services and Communications

(W.V. Code Chapter 5A)

Fund 2220 FY 2024 Org 0210

Personal Services and		
Employee Benefits.....	00100	\$ 22,681,040
Unclassified.....	09900	344,119
Current Expenses	13000	14,418,001
Equipment.....	07000	2,050,000
Other Assets.....	69000	<u>1,045,000</u>
Total.....		\$ 40,538,160

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.

157 - Division of Purchasing –

Vendor Fee Fund

(W.V. Code Chapter 5A)

Fund 2263 FY 2024 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 593,486
Current Expenses	13000	9,115
BRIM Premium.....	91300	810
Total.....		<u>\$ 603,411</u>

158 - Division of Purchasing –

Purchasing Improvement Fund

(W.V. Code Chapter 5A)

Fund 2264 FY 2024 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 1,016,493
Unclassified.....	09900	5,562
Current Expenses	13000	492,066
Repairs and Alterations.....	06400	500
Equipment.....	07000	500
Other Assets.....	69000	500
BRIM Premium.....	91300	850
Total.....		<u>\$ 1,516,471</u>

159 - Travel Management –

Aviation Fund

(W.V. Code Chapter 5A)

Fund 2302 FY 2024 Org 0215

Unclassified.....	09900	\$	1,000
Current Expenses	13000		149,700
Repairs and Alterations.....	06400		1,275,237
Equipment.....	07000		1,000
Buildings.....	25800		100
Other Assets.....	69000		100
Land	73000		100
Total.....		\$	1,427,237

160 - Fleet Management Division Fund

(W.V. Code Chapter 5A)

Fund 2301 FY 2024 Org 0216

Personal Services and			
Employee Benefits.....	00100	\$	808,935
Unclassified.....	09900		4,000
Current Expenses	13000		11,630,614
Repairs and Alterations.....	06400		12,000
Equipment.....	07000		800,000
Other Assets.....	69000		2,000
Total.....		\$	13,257,549

161 - Division of Personnel

(W.V. Code Chapter 29)

Fund 2440 FY 2024 Org 0222

Personal Services and			
Employee Benefits.....	00100	\$	4,896,513
Salary and Benefits of Cabinet			
Secretary and Agency Heads	00201		122,500
Unclassified.....	09900		51,418
Current Expenses	13000		1,262,813
Repairs and Alterations.....	06400		5,000
Equipment.....	07000		20,000
Other Assets.....	69000		60,000
Total.....		\$	6,418,244

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

162 - West Virginia Prosecuting Attorneys Institute

(W.V. Code Chapter 7)

Fund 2521 FY 2024 Org 0228

Personal Services and		
Employee Benefits.....	00100	\$ 139,194
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	119,000
Unclassified.....	09900	4,023
Current Expenses	13000	297,528
Repairs and Alterations.....	06400	600
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 561,345</u>

163 - Office of Technology –

Chief Technology Officer Administration Fund

(W.V. Code Chapter 5A)

Fund 2531 FY 2024 Org 0231

Personal Services and		
Employee Benefits.....	00100	\$ 462,599
Unclassified.....	09900	6,949
Current Expenses	13000	2,196,504
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	50,000
Other Assets.....	69000	10,000
Total.....		<u>\$ 2,727,052</u>

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*164 - Division of Forestry*

(W.V. Code Chapter 19)

Fund 3081 FY 2024 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 224,509
Current Expenses	13000	439,830
Repairs and Alterations.....	06400	53,000
Equipment.....	07000	<u>300,000</u>
Total.....		\$ 1,017,339

*165 - Division of Forestry –**Timbering Operations Enforcement Fund*

(W.V. Code Chapter 19)

Fund 3082 FY 2024 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 253,779
Current Expenses	13000	54,873
Repairs and Alterations.....	06400	<u>11,250</u>
Total.....		\$ 319,902

*166 - Division of Forestry –**Severance Tax Operations*

(W.V. Code Chapter 11)

Fund 3084 FY 2024 Org 0305

Current Expenses	13000	333,757

*167 - Geological and Economic Survey –**Geological and Analytical Services Fund*

(W.V. Code Chapter 29)

Fund 3100 FY 2024 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 37,966
Unclassified.....	09900	2,182
Current Expenses	13000	141,631
Repairs and Alterations.....	06400	50,000
Equipment.....	07000	20,000
Other Assets.....	69000	10,000
Total.....		<u>\$ 261,779</u>

The above appropriations shall be used in accordance with W.V. Code §29-2-4.

*168 - Division of Labor –**West Virginia Jobs Act Fund*

(W.V. Code Chapter 21)

Fund 3176 FY 2024 Org 0308

Current Expenses	13000	75,000
Equipment.....	07000	<u>25,000</u>
Total.....		<u>\$ 100,000</u>

*169 - Division of Labor –**HVAC Fund*

(W.V. Code Chapter 21)

Fund 3186 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 422,640
Unclassified.....	09900	4,000
Current Expenses	13000	82,000
Repairs and Alterations.....	06400	4,500
Buildings.....	25800	1,000

BRIM Premium.....	91300		8,500
Total.....		\$	522,640

170 - Division of Labor –

Elevator Safety Fund

(W.V. Code Chapter 21)

Fund 3188 FY 2024 Org 0308

Personal Services and			
Employee Benefits.....	00100	\$	306,835
Salary and Benefits of Cabinet			
Secretary and Agency Heads	00201		111,680
Unclassified.....	09900		2,261
Current Expenses	13000		94,712
Repairs and Alterations.....	06400		2,000
Buildings	25800		1,000
BRIM Premium.....	91300		8,500
Total.....		\$	526,988

171 - Division of Labor –

Steam Boiler Fund

(W.V. Code Chapter 21)

Fund 3189 FY 2024 Org 0308

Personal Services and			
Employee Benefits.....	00100	\$	83,471
Unclassified.....	09900		1,000
Current Expenses	13000		20,000
Repairs and Alterations.....	06400		2,000
Buildings	25800		1,000
BRIM Premium.....	91300		1,000
Total.....		\$	108,471

172 - Division of Labor –

Crane Operator Certification Fund

(W.V. Code Chapter 21)

Fund 3191 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 199,719
Unclassified.....	09900	1,380
Current Expenses	13000	51,265
Repairs and Alterations.....	06400	1,500
Buildings	25800	1,000
BRIM Premium.....	91300	7,000
Total.....		<u>\$ 261,864</u>

*173 - Division of Labor –**Amusement Rides and Amusement Attraction Safety Fund*

(W.V. Code Chapter 21)

Fund 3192 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 196,626
Unclassified.....	09900	1,281
Current Expenses	13000	44,520
Repairs and Alterations.....	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	8,500
Total.....		<u>\$ 253,927</u>

*174 - Division of Labor –**State Manufactured Housing Administration Fund*

(W.V. Code Chapter 21)

Fund 3195 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 299,557
Unclassified.....	09900	1,847
Current Expenses	13000	43,700

Repairs and Alterations.....	06400	1,000
Buildings.....	25800	1,000
BRIM Premium.....	91300	<u>3,404</u>
Total.....		\$ 350,508

175 - Division of Labor –

Weights and Measures Fund

(W.V. Code Chapter 47)

Fund 3196 FY 2024 Org 0308

Unclassified.....	09900	\$ 1,200
Current Expenses	13000	93,000
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
BRIM Premium.....	91300	<u>7,000</u>
Total.....		\$ 121,200

176 - Division of Labor –

Bedding and Upholstery Fund

(W.V. Code Chapter 21)

Fund 3198 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 154,316
Unclassified.....	09900	2,000
Current Expenses	13000	145,400
Repairs and Alterations.....	06400	2,000
Buildings.....	25800	1,000
BRIM Premium.....	91300	<u>8,700</u>
Total.....		\$ 313,416

177 - Division of Labor –

Psychophysiological Examiners Fund

(W.V. Code Chapter 21)

Fund 3199 FY 2024 Org 0308

Current Expenses	13000	\$	4,000

178 - Division of Natural Resources –

License Fund – Wildlife Resources

(W.V. Code Chapter 20)

Fund 3200 FY 2024 Org 0310

Wildlife Resources.....	02300	\$	10,522,336
Administration	15500		2,410,691
Capital Improvements and			
Land Purchase (R)	24800		3,023,480
Law Enforcement.....	80600		<u>9,810,311</u>
Total.....		\$	25,766,818

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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

179 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(W.V. Code Chapter 22)

Fund 3202 FY 2024 Org 0310

Current Expenses	13000	\$	125,000

180 - Division of Natural Resources –

Nongame Fund

(W.V. Code Chapter 20)

Fund 3203 FY 2024 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 699,611
Current Expenses	13000	201,810
Equipment	07000	106,615
Total.....		<u>\$ 1,008,036</u>

181 - Division of Natural Resources –

Planning and Development Division

(W.V. Code Chapter 20)

Fund 3205 FY 2024 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 475,576
Current Expenses	13000	1,056,876
Repairs and Alterations.....	06400	15,016
Equipment	07000	8,300
Buildings	25800	8,300
Other Assets	69000	1,900,000
Land	73000	31,700
Total.....		<u>\$ 3,495,768</u>

182 - Division of Natural Resources –

State Parks and Recreation Endowment Fund

(W.V. Code Chapter 20)

Fund 3211 FY 2024 Org 0310

Current Expenses	13000	\$ 6,000
Repairs and Alterations.....	06400	3,000
Equipment	07000	2,000
Buildings	25800	3,000
Other Assets	69000	3,504,000
Land	73000	2,000
Total.....		<u>\$ 3,520,000</u>

*183 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

(W.V. Code Chapter 20)

Fund 3253 FY 2024 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 73,395
Current Expenses	13000	64,778
Equipment	07000	1,297
Buildings	25800	6,969
Total.....		<u>\$ 146,439</u>

*184 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*

(W.V. Code Chapter 20)

Fund 3256 FY 2024 Org 0310

Unclassified.....	09900	\$ 200
Current Expenses	13000	19,800
Total.....		<u>\$ 20,000</u>

*185 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

(W.V. Code Chapter 22A)

Fund 3355 FY 2024 Org 0314

Personal Services and		
Employee Benefits.....	00100	\$ 524,542
Unclassified.....	09900	40,985
Current Expenses	13000	1,954,557
W.V. Mining Extension Service	02600	150,000
Buildings	25800	2,481,358
Land	73000	<u>1,000,000</u>

Total.....	\$	6,151,442

186 - Department of Commerce –

Office of the Secretary –

Marketing and Communications Operating Fund

(W.V. Code Chapter 5B)

Fund 3002 FY 2024 Org 0327

Personal Services and

Employee Benefits.....	00100	\$	2,213,512
Unclassified.....	09900		30,000
Current Expenses	13000		1,315,078
Equipment.....	07000		36,000
Total.....		\$	3,594,590

187 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(W.V. Code Chapter 18)

Fund 8664 FY 2024 Org 0932

Personal Services and

Employee Benefits.....	00100	\$	119,738
Current Expenses	13000		1,180,122
Repairs and Alterations.....	06400		85,500
Equipment.....	07000		220,000
Buildings.....	25800		150,000
Other Assets.....	69000		150,000
Total.....		\$	1,905,360

DEPARTMENT OF ECONOMIC DEVELOPMENT

188 - Department of Economic Development –

Office of Energy –

Energy Assistance

(W.V. Code Chapter 5B)

Fund 3010 FY 2024 Org 0307

Energy Assistance - Total	64700	\$	7,211

*189 - Department of Economic Development –**Office of the Secretary –**Broadband Enhancement Fund*

(W.V. Code Chapter 31G)

Fund 3013 FY 2024 Org 0307

Personal Services and			
Employee Benefits	00100	\$	131,682
Current Expenses	13000		<u>1,648,318</u>
Total		\$	<u>1,780,000</u>

*190 - Department of Economic Development –**Office of the Secretary –**Entrepreneurship and Innovation Investment Fund*

(W.V. Code Chapter 5B)

Fund 3014 FY 2024 Org 0307

Entrepreneurship and Innovation			
Investment Fund	70301	\$	1,500,000

*191 - Department of Economic Development –**Office of the Secretary –**Broadband Development Fund*

(W.V. Code Chapter 31G)

Fund 3034 FY 2024 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 668,906
Unclassified.....	09900	2,000,000
Current Expenses	13000	<u>235,302,925</u>
Total.....		\$ 237,971,831

192 - Department of Economic Development –

Office of the Secretary –

Office of Coalfield Community Development

(W.V. Code Chapter 5B)

Fund 3162 FY 2024 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

193 - State Board of Education –

Strategic Staff Development

(W.V. Code Chapter 18)

Fund 3937 FY 2024 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

194 - School Building Authority –

School Construction Fund

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

Fund 3952 FY 2024 Org 0404

SBA Construction Grants	24000	\$ 102,345,818
Directed Transfer	70000	<u>1,371,182</u>
Total.....		\$ 103,717,000

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.

195 - School Building Authority

(W.V. Code Chapter 18)

Fund 3959 FY 2024 Org 0404

Personal Services and		
Employee Benefits.....	00100	\$ 1,198,718
Current Expenses	13000	244,195
Repairs and Alterations.....	06400	13,150
Equipment.....	07000	<u>26,000</u>
Total.....		\$ 1,482,063

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

196 - Division of Culture and History –

Public Records and Preservation Revenue Account

(W.V. Code Chapter 5A)

Fund 3542 FY 2024 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 244,348
Current Expenses	13000	862,241
Equipment.....	07000	75,000
Buildings.....	25800	1,000
Other Assets.....	69000	52,328
Land	73000	<u>1,000</u>
Total.....		\$ 1,235,917

DEPARTMENT OF ENVIRONMENTAL PROTECTION*197 - Solid Waste Management Board*

(W.V. Code Chapter 22C)

Fund 3288 FY 2024 Org 0312

Personal Services and		
Employee Benefits.....	00100	\$ 891,366
Current Expenses	13000	2,059,457
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Other Assets.....	69000	4,403
Total.....		<u>\$ 2,961,226</u>

*198 - Division of Environmental Protection –**Hazardous Waste Management Fund*

(W.V. Code Chapter 22)

Fund 3023 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 819,765
Unclassified.....	09900	8,072
Current Expenses	13000	155,969
Repairs and Alterations.....	06400	500
Equipment.....	07000	1,505
Other Assets.....	69000	2,000
Total.....		<u>\$ 987,811</u>

*199 - Division of Environmental Protection –**Air Pollution Education and Environment Fund*

(W.V. Code Chapter 22)

Fund 3024 FY 2024 Org 0313

Personal Services and

Employee Benefits.....	00100	\$	814,372
Unclassified.....	09900		14,647
Current Expenses	13000		876,863
Repairs and Alterations.....	06400		13,000
Equipment.....	07000		53,105
Other Assets.....	69000		20,000
Total.....		\$	1,791,987

*200 - Division of Environmental Protection –**Special Reclamation Fund*

(W.V. Code Chapter 22)

Fund 3321 FY 2024 Org 0313

Personal Services and

Employee Benefits.....	00100	\$	1,721,232
Current Expenses	13000		16,185,006
Repairs and Alterations.....	06400		79,950
Equipment.....	07000		130,192
Other Assets.....	69000		32,000
Total.....		\$	18,148,380

*201 - Division of Environmental Protection –**Oil and Gas Reclamation Fund*

(W.V. Code Chapter 22)

Fund 3322 FY 2024 Org 0313

Personal Services and

Employee Benefits.....	00100	\$	555,414
Current Expenses	13000		1,956,094
Total.....		\$	2,511,508

*202 - Division of Environmental Protection –**Oil and Gas Operating Permit and Processing Fund*

(W.V. Code Chapter 22)

Fund 3323 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 2,240,459
Unclassified.....	09900	15,700
Current Expenses	13000	932,300
Repairs and Alterations.....	06400	9,500
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 3,198,959</u>

*203 - Division of Environmental Protection –**Mining and Reclamation Operations Fund*

(W.V. Code Chapter 22)

Fund 3324 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 3,684,989
Unclassified.....	09900	920
Current Expenses	13000	2,202,231
Repairs and Alterations.....	06400	60,260
Equipment.....	07000	83,000
Other Assets.....	69000	57,500
Total.....		<u>\$ 6,088,900</u>

*204 - Division of Environmental Protection –**Underground Storage Tank**Administrative Fund*

(W.V. Code Chapter 22)

Fund 3325 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 492,391

2023]

HOUSE OF DELEGATES

2375

Unclassified.....	09900	7,520
Current Expenses	13000	318,420
Repairs and Alterations.....	06400	5,350
Equipment.....	07000	3,610
Other Assets.....	69000	<u>3,500</u>
Total.....		\$ 830,791

*205 - Division of Environmental Protection –**Hazardous Waste Emergency Response Fund*

(W.V. Code Chapter 22)

Fund 3331 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 627,683
Unclassified.....	09900	10,616
Current Expenses	13000	767,905
Repairs and Alterations.....	06400	7,014
Equipment.....	07000	9,000
Other Assets.....	69000	<u>3,500</u>
Total.....		\$ 1,425,718

*206 - Division of Environmental Protection –**Solid Waste Reclamation and**Environmental Response Fund*

(W.V. Code Chapter 22)

Fund 3332 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 873,713
Unclassified.....	09900	22,900
Current Expenses	13000	3,604,737
Repairs and Alterations.....	06400	25,000
Equipment.....	07000	31,500
Buildings.....	25800	500
Other Assets.....	69000	<u>1,000</u>
Total.....		\$ 4,559,350

*207 - Division of Environmental Protection –**Solid Waste Enforcement Fund*

(W.V. Code Chapter 22)

Fund 3333 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 3,442,454
Unclassified.....	09900	31,145
Current Expenses	13000	940,229
Repairs and Alterations.....	06400	30,930
Equipment.....	07000	23,356
Other Assets.....	69000	<u>25,554</u>
Total.....		\$ 4,493,668

*208 - Division of Environmental Protection –**Air Pollution Control Fund*

(W.V. Code Chapter 22)

Fund 3336 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 6,263,887
Unclassified.....	09900	70,572
Current Expenses	13000	1,469,467
Repairs and Alterations.....	06400	84,045
Equipment.....	07000	103,601
Other Assets.....	69000	<u>52,951</u>
Total.....		\$ 8,044,523

*209 - Division of Environmental Protection –**Environmental Laboratory**Certification Fund*

(W.V. Code Chapter 22)

Fund 3340 FY 2024 Org 0313

2023]

HOUSE OF DELEGATES

2377

Personal Services and		
Employee Benefits.....	00100	\$ 375,851
Unclassified.....	09900	1,120
Current Expenses	13000	201,146
Repairs and Alterations.....	06400	1,000
Other Assets.....	69000	163,000
Total.....		<u>\$ 742,117</u>

*210 - Division of Environmental Protection –**Stream Restoration Fund*

(W.V. Code Chapter 22)

Fund 3349 FY 2024 Org 0313

Current Expenses	13000	\$ 5,182,076

*211 - Division of Environmental Protection –**Litter Control Fund*

(W.V. Code Chapter 22)

Fund 3486 FY 2024 Org 0313

Current Expenses	13000	\$ 60,000

*212 - Division of Environmental Protection –**Recycling Assistance Fund*

(W.V. Code Chapter 22)

Fund 3487 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 695,250
Unclassified.....	09900	400
Current Expenses	13000	2,754,258
Repairs and Alterations.....	06400	800
Equipment	07000	500
Other Assets.....	69000	2,500
Total.....		<u>\$ 3,453,708</u>

*213 - Division of Environmental Protection –**Mountaintop Removal Fund*

(W.V. Code Chapter 22)

Fund 3490 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 1,145,549
Unclassified.....	09900	1,180
Current Expenses	13000	589,834
Repairs and Alterations.....	06400	27,612
Equipment.....	07000	23,500
Other Assets.....	69000	<u>11,520</u>
Total.....		\$ 1,799,195

*214 - Oil and Gas Conservation Commission –**Special Oil and Gas Conservation Fund*

(W.V. Code Chapter 22C)

Fund 3371 FY 2024 Org 0315

Personal Services and		
Employee Benefits.....	00100	\$ 167,915
Current Expenses	13000	161,225
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	9,481
Other Assets.....	69000	<u>1,500</u>
Total.....		\$ 341,121

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*215 - Division of Health –**Ryan Brown Addiction Prevention and Recovery Fund*

(W.V. Code Chapter 19)

Fund 5111 FY 2024 Org 0506

Current Expenses	13000	\$	10,667,392

216 - Division of Health –

The Vital Statistics Account

(W.V. Code Chapter 16)

Fund 5144 FY 2024 Org 0506

Personal Services and

Employee Benefits.....	00100	\$	1,144,311
Unclassified.....	09900		15,500
Current Expenses	13000		<u>3,557,788</u>
Total.....		\$	4,717,599

217 - Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(W.V. Code Chapter 16)

Fund 5156 FY 2024 Org 0506

Institutional Facilities Operations	33500	\$	59,195,646
Medical Services Trust			
Fund – Transfer.....	51200		<u>27,800,000</u>
Total.....		\$	86,995,646

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 in fund 0525, fiscal year 2024, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to 10 percent of the funds from

the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

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.

218 - Division of Health –

Laboratory Services Fund

(W.V. Code Chapter 16)

Fund 5163 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 1,028,784
Unclassified.....	09900	18,114
Current Expenses	13000	<u>2,209,105</u>
Total.....		\$ 3,256,003

219 - Division of Health –

The Health Facility Licensing Account

(W.V. Code Chapter 16)

Fund 5172 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 688,753
Unclassified.....	09900	7,113
Current Expenses	13000	<u>98,247</u>
Total.....		\$ 794,113

*220 - Division of Health –**Hepatitis B Vaccine*

(W.V. Code Chapter 16)

Fund 5183 FY 2024 Org 0506

Current Expenses	13000	\$	9,740

*221 - Division of Health –**Lead Abatement Account*

(W.V. Code Chapter 16)

Fund 5204 FY 2024 Org 0506

Personal Services and			
Employee Benefits.....	00100	\$	19,100
Unclassified.....	09900		373
Current Expenses	13000		17,875
Total.....		\$	37,348

*222 - Division of Health –**West Virginia Birth-to-Three Fund*

(W.V. Code Chapter 16)

Fund 5214 FY 2024 Org 0506

Personal Services and			
Employee Benefits.....	00100	\$	738,310
Unclassified.....	09900		223,999
Current Expenses	13000		33,372,684
Total.....		\$	34,334,993

*223 - Division of Health –**Tobacco Control Special Fund*

(W.V. Code Chapter 16)

Fund 5218 FY 2024 Org 0506

Current Expenses	13000	\$	7,579

224 - Division of Health –

Medical Cannabis Program Fund

(W.V. Code Chapter 16A)

Fund 5420 FY 2024 Org 0506

Personal Services and

Employee Benefits.....	00100	\$	509,658
Current Expenses	13000		<u>2,046,040</u>
Total.....		\$	2,555,698

225 - Division of Health –

Emergency Medical Service Workers Salary Enhancement Fund

(W.V. Code Chapter 16A)

Fund xxxx FY 2024 Org 0506

Current Expenses	13000	\$	10,000,000

226 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(W.V. Code Chapter 16)

Fund 5375 FY 2024 Org 0507

Personal Services and

Employee Benefits.....	00100	\$	556,513
Unclassified.....	09900		13,500
Current Expenses	13000		<u>785,445</u>
Total.....		\$	1,355,458

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.

*227 - West Virginia Health Care Authority –**Certificate of Need Program Fund*

(W.V. Code Chapter 16)

Fund 5377 FY 2024 Org 0507

Personal Services and

Employee Benefits.....	00100	\$	555,842
Current Expenses	13000		<u>392,267</u>
Total.....		\$	948,109

*228 - Division of Human Services –**Health Care Provider Tax –**Medicaid State Share Fund*

(W.V. Code Chapter 11)

Fund 5090 FY 2024 Org 0511

Medical Services.....	18900	\$	393,594,315
Medical Services			
Administrative Costs	78900		<u>259,746</u>
Total.....		\$	393,854,061

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 Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*229 - Division of Human Services –**Child Support Enforcement Fund*

(W.V. Code Chapter 48A)

Fund 5094 FY 2024 Org 0511

Personal Services and

Employee Benefits.....	00100	\$ 24,809,509
Unclassified.....	09900	380,000
Current Expenses	13000	<u>12,810,491</u>
Total.....		\$ 38,000,000

*230 - Division of Human Services –**Medical Services Trust Fund*

(W.V. Code Chapter 9)

Fund 5185 FY 2024 Org 0511

Medical Services	18900	\$ 55,000,000
Medical Services		
Administrative Costs	78900	<u>686,674</u>
Total.....		\$ 55,686,674

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 Division of Human Services accounts.

*231 - Division of Human Services –**James “Tiger” Morton Catastrophic Illness Fund*

(W.V. Code Chapter 16)

Fund 5454 FY 2024 Org 0511

Personal Services and

Employee Benefits.....	00100	\$ 136,984
Unclassified.....	09900	4,000
Current Expenses	13000	<u>396,000</u>
Total.....		\$ 536,984

*232 - Division of Human Services –**Domestic Violence Legal Services Fund*

(W.V. Code Chapter 48)

Fund 5455 FY 2024 Org 0511

Current Expenses	13000	\$	900,000

*233 - Division of Human Services –**West Virginia Works Separate State College Program Fund*

(W.V. Code Chapter 9)

Fund 5467 FY 2024 Org 0511

Current Expenses	13000	\$	500,000

*234 - Division of Human Services –**West Virginia Works Separate State Two-Parent Program Fund*

(W.V. Code Chapter 9)

Fund 5468 FY 2024 Org 0511

Current Expenses	13000	\$	1,500,000

*235 - Division of Human Services –**Marriage Education Fund*

(W.V. Code Chapter 9)

Fund 5490 FY 2024 Org 0511

Personal Services and			
Employee Benefits.....	00100	\$	10,000
Current Expenses	13000		<u>25,000</u>
Total.....		\$	35,000

DEPARTMENT OF HOMELAND SECURITY

236 - 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 2024 Org 0601

Current Expenses	13000	\$	32,000

237 - Division of Emergency Management –

Statewide Interoperable Radio Network Account

(W.V. Code Chapter 15)

Fund 6208 FY 2024 Org 0606

Current Expenses	13000	\$	80,000

238 - Division of Emergency Management –

West Virginia Interoperable Radio Project

(W.V. Code Chapter 24)

Fund 6295 FY 2024 Org 0606

Unclassified.....	09900	\$	20,000
Current Expenses	13000		3,980,000
Repairs and Alterations	06400		250,000
Equipment	07000		<u>250,000</u>
Total		\$	4,500,000

239 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(W.V. Code Chapter 15A)

Fund 6362 FY 2024 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 1,199,557
Unclassified.....	09900	9,804
Current Expenses	13000	758,480
Equipment.....	07000	30,000
Other Assets.....	69000	40,129
Total.....		<u>\$ 2,037,970</u>

*240 - Division of Corrections and Rehabilitation –**Regional Jail and Correctional Facility Authority*

(W.V. Code Chapter 15A)

Fund 6675 FY 2024 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	245,472
Total.....		<u>\$ 11,273,218</u>

*241 - West Virginia State Police –**Motor Vehicle Inspection Fund*

(W.V. Code Chapter 17C)

Fund 6501 FY 2024 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 2,019,791
Current Expenses	13000	1,488,211
Repairs and Alterations.....	06400	204,500
Equipment.....	07000	3,770,751

Buildings	25800	534,000
Other Assets	69000	5,000
BRIM Premium	91300	<u>302,432</u>
Total		\$ 8,324,685

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.

242 - West Virginia State Police –

Forensic Laboratory Fund

(W.V. Code Chapter 15)

Fund 6511 FY 2024 Org 0612

Personal Services and		
Employee Benefits	00100	\$ 1,623,315
Current Expenses	13000	90,000
Repairs and Alterations	06400	5,000
Equipment	07000	<u>545,000</u>
Total		\$ 2,263,315

243 - West Virginia State Police –

Drunk Driving Prevention Fund

(W.V. Code Chapter 15)

Fund 6513 FY 2024 Org 0612

Current Expenses	13000	\$ 1,327,000
Equipment	07000	3,491,895
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.

*244 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(W.V. Code Chapter 15)

Fund 6516 FY 2024 Org 0612

Buildings	25800	\$	1,022,778
Land	73000		1,000
BRIM Premium.....	91300		<u>77,222</u>
Total.....		\$	1,101,000

*245 - West Virginia State Police –**Surplus Transfer Account*

(W.V. Code Chapter 15)

Fund 6519 FY 2024 Org 0612

Current Expenses	13000	\$	225,000
Repairs and Alterations.....	06400		20,000
Equipment	07000		250,000
Buildings	25800		40,000
Other Assets	69000		45,000
BRIM Premium.....	91300		<u>5,000</u>
Total.....		\$	585,000

*246 - West Virginia State Police –**Central Abuse Registry Fund*

(W.V. Code Chapter 15)

Fund 6527 FY 2024 Org 0612

Personal Services and			
Employee Benefits.....	00100	\$	279,648
Current Expenses	13000		376,443
Repairs and Alterations.....	06400		500
Equipment	07000		300,500

Other Assets.....	69000	300,500
BRIM Premium.....	91300	<u>18,524</u>
Total.....		\$ 1,276,115

247 - West Virginia State Police –

Bail Bond Enforcer Account

(W.V. Code Chapter 15)

Fund 6532 FY 2024 Org 0612

Current Expenses	13000	\$ 8,300

248 - West Virginia State Police –

State Police Academy Post Exchange

(W.V. Code Chapter 15)

Fund 6544 FY 2024 Org 0612

Current Expenses	13000	\$ 160,000
Repairs and Alterations.....	06400	<u>40,000</u>
Total.....		\$ 200,000

249 - Fire Commission –

Fire Marshal Fees

(W.V. Code Chapter 29)

Fund 6152 FY 2024 Org 0619

Personal Services and		
Employee Benefits.....	00100	\$ 3,742,215
Unclassified.....	09900	3,800
Current Expenses	13000	1,646,550
Repairs and Alterations.....	06400	58,500
Equipment	07000	140,800
BRIM Premium.....	91300	<u>65,000</u>
Total.....		\$ 5,656,865

250 - Division of Administrative Services –

W.V. Community Corrections Fund

(W.V. Code Chapter 62)

Fund 6386 FY 2024 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 171,789
Unclassified.....	09900	750
Current Expenses	13000	1,846,250
Repairs and Alterations.....	06400	<u>1,000</u>
Total.....		\$ 2,019,789

251 - Division of Administrative Services –

Court Security Fund

(W.V. Code Chapter 51)

Fund 6804 FY 2024 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 25,430
Current Expenses	13000	<u>1,478,135</u>
Total.....		\$ 1,503,565

252 - Division of Administrative Services –

Second Chance Driver’s License Program Account

(W.V. Code Chapter 17B)

Fund 6810 FY 2024 Org 0623

Current Expenses	
13000	
\$ 125,000	

DEPARTMENT OF REVENUE

253 - Division of Financial Institutions

(W.V. Code Chapter 31A)

Fund 3041 FY 2024 Org 0303

Personal Services and		
Employee Benefits.....	00100	\$ 2,720,504
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	119,000
Current Expenses	13000	650,475
Equipment	07000	8,500
Total.....		\$ 3,498,479

*254 - Office of the Secretary –**State Debt Reduction Fund*

(W.V. Code Chapter 29)

Fund 7007 FY 2024 Org 0701

Retirement Systems –

Unfunded Liability.....	77500	\$ 20,000,000

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).

255 - Home Rule Board Operations

(W.V. Code Chapter 8)

Fund 7010 FY 2024 Org 0701

Personal Services and		
Employee Benefits.....	00100	\$ 25,000
Unclassified.....	09900	680
Current Expenses	13000	42,000
Repairs and Alterations.....	06400	120
Equipment	07000	200
Total.....		\$ 68,000

*256 - Tax Division –**Reduced Cigarette Ignition Propensity**Standard and Fire Prevention Act Fund*

(W.V. Code Chapter 47)

Fund 7092 FY 2024 Org 0702

Current Expenses	13000	\$	35,000
Equipment	07000		<u>15,000</u>
Total		\$	50,000

*257 - State Budget Office –**Public Employees Insurance Reserve Fund*

(W.V. Code Chapter 11B)

Fund 7400 FY 2024 Org 0703

Public Employees Insurance			
Reserve Fund – Transfer.....	90300	\$	6,800,000

The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185).

*258 - Insurance Commissioner –**Examination Revolving Fund*

(W.V. Code Chapter 33)

Fund 7150 FY 2024 Org 0704

Personal Services and			
Employee Benefits.....	00100	\$	771,781
Current Expenses	13000		1,357,201
Repairs and Alterations.....	06400		3,000
Equipment	07000		81,374
Buildings	25800		8,289

Other Assets.....	69000	<u>11,426</u>
Total.....		\$ 2,233,071

259 - Insurance Commissioner –

Consumer Advocate

(W.V. Code Chapter 33)

Fund 7151 FY 2024 Org 0704

Personal Services and		
Employee Benefits.....	00100	\$ 592,264
Current Expenses	13000	202,152
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	34,225
Buildings	25800	4,865
Other Assets.....	69000	<u>19,460</u>
Total.....		\$ 857,966

260 - Insurance Commissioner –

Insurance Commission Fund

(W.V. Code Chapter 33)

Fund 7152 FY 2024 Org 0704

Personal Services and		
Employee Benefits.....	00100	\$ 25,074,593
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	136,500
Current Expenses	13000	8,797,758
Repairs and Alterations.....	06400	68,614
Equipment.....	07000	1,728,240
Buildings	25800	25,000
Other Assets.....	69000	<u>340,661</u>
Total.....		\$ 36,171,366

261 - Insurance Commissioner –

Insurance Fraud Prevention Fund

(W.V. Code Chapter 33)

Fund 7153 FY 2024 Org 0704

Current Expenses	13000	\$	15,000

*262 - Insurance Commissioner –**Workers' Compensation Old Fund*

(W.V. Code Chapter 23)

Fund 7162 FY 2024 Org 0704

Employee Benefits	01000	\$	50,000
Current Expenses	13000		<u>250,500,000</u>
Total.....		\$	250,550,000

*263 - Insurance Commissioner –**Workers' Compensation Uninsured Employers' Fund*

(W.V. Code Chapter 23)

Fund 7163 FY 2024 Org 0704

Current Expenses	13000	\$	15,000,000

*264 - Insurance Commissioner –**Self-Insured Employer Guaranty Risk Pool*

(W.V. Code Chapter 23)

Fund 7164 FY 2023 Org 0704

Current Expenses	13000	\$	9,000,000

*265 - Insurance Commissioner –**Self-Insured Employer Security Risk Pool*

(W.V. Code Chapter 23)

Fund 7165 FY 2024 Org 0704

Current Expenses	13000	\$	14,000,000

266 - Municipal Bond Commission

(W.V. Code Chapter 13)

Fund 7253 FY 2024 Org 0706

Personal Services and			
Employee Benefits.....	00100	\$	373,348
Current Expenses	13000		154,344
Equipment	07000		100
Total.....		\$	527,792

267 - Racing Commission –

Relief Fund

(W.V. Code Chapter 19)

Fund 7300 FY 2024 Org 0707

Medical Expenses – Total.....	24500	\$	154,000

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.

268 - Racing Commission –

Administration and Promotion Account

(W.V. Code Chapter 19)

Fund 7304 FY 2024 Org 0707

Personal Services and			
Employee Benefits.....	00100	\$	279,525
Current Expenses	13000		85,433

Other Assets	69000	<u>5,000</u>
Total		\$ 369,958

*269 - Racing Commission –**General Administration*

(W.V. Code Chapter 19)

Fund 7305 FY 2024 Org 0707

Personal Services and		
Employee Benefits	00100	\$ 2,450,028
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	48,443
Current Expenses	13000	497,284
Repairs and Alterations	06400	5,000
Other Assets	69000	<u>40,000</u>
Total		\$ 3,040,755

*270 - 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 2024 Org 0707

Personal Services and		
Employee Benefits	00100	\$ 930,289
Current Expenses	13000	160,099
Other Assets	69000	<u>200,000</u>
Total		\$ 1,290,388

*271 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(W.V. Code Chapter 60)

Fund 7351 FY 2024 Org 0708

Personal Services and

Employee Benefits.....	00100	\$	152,670
Current Expenses	13000		54,186
Repairs and Alterations.....	06400		7,263
Equipment	07000		10,000
Buildings	25800		100,000
Transfer Liquor Profits and Taxes	42500		30,750
Other Assets	69000		100
Total		\$	354,969

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

272 - Alcohol Beverage Control Administration

(W.V. Code Chapter 60)

Fund 7352 FY 2024 Org 0708

Personal Services and

Employee Benefits.....	00100	\$	6,016,074
Salary and Benefits of Cabinet			
Secretary and Agency Heads	00201		122,500
Current Expenses	13000		2,890,577
Repairs and Alterations.....	06400		91,000
Equipment	07000		108,000
Buildings	25800		375,100
Purchase of Supplies for Resale.....	41900		100,000,000
Transfer Liquor Profits and Taxes	42500		30,000,000
Other Assets	69000		125,100
Land	73000		100
Total		\$	139,728,451

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.

273 - State Athletic Commission Fund

(W.V. Code Chapter 29)

Fund 7009 FY 2024 Org 0933

Personal Services and

Employee Benefits.....	00100	\$	17,500
Current Expenses	13000		<u>28,000</u>
Total.....		\$	45,500

DEPARTMENT OF TRANSPORTATION

274 - Division of Motor Vehicles –

Dealer Recovery Fund

(W.V. Code Chapter 17)

Fund 8220 FY 2024 Org 0802

Current Expenses	13000	\$	189,000

275 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(W.V. Code Chapter 17B)

Fund 8223 FY 2024 Org 0802

Personal Services and

Employee Benefits.....	00100	\$	4,109,846
Current Expenses	13000		4,337,712
Repairs and Alterations.....	06400		16,000

Equipment	07000	75,000
Other Assets	69000	10,000
BRIM Premium	91300	<u>110,000</u>
Total		\$ 8,658,558

276 - Division of Highways –

A. James Manchin Fund

(W.V. Code Chapter 22)

Fund 8319 FY 2024 Org 0803

Current Expenses	13000	\$ 2,500,000

277 - WV Division of Multimodal Transportation Facilities -

State Rail Authority -

West Virginia Commuter Rail Access Fund

(W.V. Code Chapter 29)

Fund 8402 FY 2024 Org 0810

Current Expenses	13000	\$ 600,000

DEPARTMENT OF VETERANS' ASSISTANCE

278 - Veterans' Facilities Support Fund

(W.V. Code Chapter 9A)

Fund 6703 FY 2024 Org 0613

Current Expenses	13000	\$ 1,654,234
Other Assets	69000	<u>10,000</u>
Total		\$ 1,664,234

279 - Department of Veterans' Assistance –

W.V. Veterans' Home –

Special Revenue Operating Fund

(W.V. Code Chapter 9A)

Fund 6754 FY 2024 Org 0618

Current Expenses	13000	\$	289,400
Repairs and Alterations.....	06400		<u>10,600</u>
Total.....		\$	300,000

BUREAU OF SENIOR SERVICES*280 - Bureau of Senior Services –**Community Based Service Fund*

(W.V. Code Chapter 29)

Fund 5409 FY 2024 Org 0508

Personal Services and			
Employee Benefits.....	00100	\$	144,813
Salary and Benefits of Cabinet			
Secretary and Agency Heads	00201		25,795
Current Expenses	13000		<u>10,348,710</u>
Total.....		\$	10,519,318

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*281 - 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 2024 Org 0442

Debt Service.....	04000	\$	27,411,984
General Capital Expenditures	30600		5,000,000
Facilities Planning and Administration	38600		<u>467,154</u>
Total.....		\$	32,879,138

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.

282 - Tuition Fee Revenue Bond Construction Fund

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

Fund 4906 FY 2024 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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.

283 - West Virginia University –

West Virginia University Health Sciences Center

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

Fund 4179 FY 2024 Org 0463

Personal Services and

Employee Benefits.....	00100	\$	11,425,515
Current Expenses	13000		4,524,300
Repairs and Alterations.....	06400		425,000
Equipment	07000		512,000
Buildings	25800		150,000
Other Assets.....	69000		50,000
Total.....		\$	17,086,815

284 - Marshall University –

School of Medicine

(W.V. Code Chapter 18B)

Fund 4271 FY 2024 Org 0471

Marshall Medical School	17300	\$	5,500,000

285 - West Virginia School of Osteopathic Medicine

(W.V. Code Chapter 18B)

Fund 4272 FY 2024 Org 0476

West Virginia School of

Osteopathic Medicine	17200	\$	3,996,878

MISCELLANEOUS BOARDS AND COMMISSIONS

286 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(W.V. Code Chapters 16 and 30)

Fund 5425 FY 2024 Org 0505

Personal Services and

Employee Benefits.....	00100	\$	587,300
Current Expenses	13000		234,969
Repairs and Alterations.....	06400		5,000
Total.....		\$	827,269

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.

287 - Hospital Finance Authority –

Hospital Finance Authority Fund

(W.V. Code Chapter 16)

Fund 5475 FY 2024 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 Code.

288 - State Armory Board –

General Armory Fund

(W.V. Code Chapter 15)

Fund 6057 FY 2024 Org 0603

Personal Services and		
Employee Benefits.....	00100	\$ 1,688,662
Current Expenses	13000	650,000
Repairs and Alterations	06400	385,652
Equipment	07000	250,000
Buildings	25800	520,820
Other Assets	69000	350,000
Land	73000	<u>200,000</u>
Total.....		\$ 4,045,134

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).

289 - W.V. State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(W.V. Code Chapter 30)

Fund 8517 FY 2024 Org 0906

Personal Services and		
Employee Benefits.....	00100	\$ 988,523
Current Expenses	13000	<u>253,007</u>
Total.....		\$ 1,241,530

290 - W.V. Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(W.V. Code Chapter 30)

Fund 8520 FY 2024 Org 0907

Personal Services and		
Employee Benefits.....	00100	\$ 1,381,175
Current Expenses	13000	312,655
Repairs and Alterations.....	06400	3,000
Equipment.....	07000	25,000
Other Assets.....	69000	<u>4,500</u>
Total.....		\$ 1,726,330

291 - Public Service Commission

(W.V. Code Chapter 24)

Fund 8623 FY 2024 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 12,882,976
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	318,640
Unclassified.....	09900	147,643
Current Expenses	13000	2,507,202
Repairs and Alterations.....	06400	270,000
Equipment.....	07000	160,000
Buildings	25800	10
PSC Weight Enforcement.....	34500	4,870,957
Debt Payment/Capital Outlay	52000	350,000
Land	73000	10
BRIM Premium.....	91300	172,216
Total.....		\$ 21,679,654

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, org 0926) due to the amendment and reenactment of W.V. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

*292 - Public Service Commission –**Gas Pipeline Division –**Public Service Commission Pipeline Safety Fund*

(W.V. Code Chapter 24B)

Fund 8624 FY 2024 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 294,103
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	11,949

Unclassified.....	09900	3,851
Current Expenses	13000	93,115
Repairs and Alterations.....	06400	4,000
Total.....		<u>\$ 407,018</u>

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.

293 - Public Service Commission –

Motor Carrier Division

(W.V. Code Chapter 24A)

Fund 8625 FY 2024 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 2,420,468
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	67,711
Unclassified.....	09900	29,233
Current Expenses	13000	577,557
Repairs and Alterations.....	06400	23,000
Equipment	07000	50,000
Total.....		<u>\$ 3,167,969</u>

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.

294 - Public Service Commission –

Consumer Advocate Fund

(W.V. Code Chapter 24)

Fund 8627 FY 2024 Org 0926

Personal Services and

Employee Benefits.....	00100	\$	978,337
Current Expenses	13000		536,472
Equipment.....	07000		9,872
BRIM Premium.....	91300		<u>4,660</u>
Total.....		\$	1,529,341

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.

*295 - Real Estate Commission –**Real Estate License Fund*

(W.V. Code Chapter 30)

Fund 8635 FY 2024 Org 0927

Personal Services and

Employee Benefits.....	00100	\$	644,650
Current Expenses	13000		293,122
Repairs and Alterations.....	06400		2,500
Equipment.....	07000		<u>5,000</u>
Total.....		\$	945,272

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

*296 - 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 2024 Org 0930

Personal Services and

Employee Benefits.....	00100	\$	100,292
Current Expenses	13000		<u>63,499</u>
Total.....		\$	163,791

*297 - W.V. Board of Respiratory Care –**Board of Respiratory Care Fund*

(W.V. Code Chapter 30)

Fund 8676 FY 2024 Org 0935

Personal Services and		
Employee Benefits.....	00100	\$ 91,632
Current Expenses	13000	<u>62,709</u>
Total.....		\$ 154,341

*298 - W.V. Board of Licensed Dietitians –**Dietitians Licensure Board Fund*

(W.V. Code Chapter 30)

Fund 8680 FY 2024 Org 0936

Personal Services and		
Employee Benefits.....	00100	\$ 20,219
Current Expenses	13000	<u>20,250</u>
Total.....		\$ 40,469

*299 - Massage Therapy Licensure Board –**Massage Therapist Board Fund*

(W.V. Code Chapter 30)

Fund 8671 FY 2024 Org 0938

Personal Services and		
Employee Benefits.....	00100	\$ 118,869
Current Expenses	13000	<u>47,388</u>
Total.....		\$ 166,257

*300 - Board of Medicine –**Medical Licensing Board Fund*

(W.V. Code Chapter 30)

Fund 9070 FY 2024 Org 0945

Personal Services and		
Employee Benefits.....	00100	\$ 1,623,608
Current Expenses	13000	1,108,789
Repairs and Alterations.....	06400	8,000
Total.....		<u>\$ 2,740,397</u>

*301 - West Virginia Enterprise Resource Planning Board –**Enterprise Resource Planning System Fund*

(W.V. Code Chapter 12)

Fund 9080 FY 2024 Org 0947

Personal Services and		
Employee Benefits.....	00100	\$ 5,577,966
Unclassified.....	09900	132,000
Current Expenses	13000	19,214,993
Repairs and Alterations.....	06400	300
Equipment.....	07000	502,000
Buildings.....	25800	2,000
Other Assets.....	69000	2,004,500
Total.....		<u>\$ 27,433,759</u>

*302 - Board of Treasury Investments –**Board of Treasury Investments Fee Fund*

(W.V. Code Chapter 12)

Fund 9152 FY 2024 Org 0950

Personal Services and		
Employee Benefits.....	00100	\$ 857,714
Unclassified.....	09900	14,850
Current Expenses	13000	580,889
BRIM Premium.....	91300	31,547
Fees of Custodians, Fund		
Advisors and Fund Managers	93800	<u>3,500,000</u>

Total.....	\$ 4,985,000

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 Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

303 - Contractor Licensing Board Fund

(W.V. Code Chapter 21)

Fund 3187 FY 2024 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).....	<u>\$ 2,071,416,872</u>

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.

304 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(W.V. Code Chapter 5)

Fund 2252 FY 2024 Org 0211

	Appropriation	Lottery Funds
Debt Service – Total	31000	\$ 10,000,000

305 - Department of Tourism –

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 3067 FY 2024 Org 0304

Tourism – Telemarketing Center	46300	\$ 82,080
Tourism – Advertising (R).....	61800	2,422,407
Tourism – Operations (R).....	66200	<u>4,451,771</u>
Total.....		\$ 6,956,258

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

306 - Division of Natural Resources

(W.V. Code Chapter 20)

Fund 3267 FY 2024 Org 0310

Personal Services and

Employee Benefits.....	00100	\$	2,667,436
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		494,578
Total.....		\$	3,778,959

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

307 - State Board of Education

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

Fund 3951 FY 2024 Org 0402

FBI Checks.....	37200	\$	122,303
Vocational Education			
Equipment Replacement.....	39300		800,000
Assessment Program (R).....	39600		490,439
Literacy Project.....	89900		350,000
21 st Century Technology			
Infrastructure Network			
Tools and Support (R)	93300		12,622,796
Total.....		\$	14,385,538

Any unexpended balances remaining in the appropriations for Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

*308 - State Department of Education –**School Building Authority –**Debt Service Fund*

(W.V. Code Chapter 18)

Fund 3963 FY 2024 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, organization 0404 to be used for school construction and maintenance projects.

*309 - Division of Culture and History –**Lottery Education Fund*

(W.V. Code Chapter 29)

Fund 3534 FY 2024 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		387,916
Archeological Curation/Capital Improvements (R).....	24600		40,593
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.....		\$ 4,283,415

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 \$891, Beckley Main Street (Raleigh) \$2,970, 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, Mountaineer Boys' State (Lewis) \$5,941, 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, Rhododendron Girl's State (Ohio) \$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) \$2,970, Allegheny Echo (Pocahontas) \$4,456, 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, 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, Belle Town Fair (Kanawha) \$3,000, Belleville Homecoming (Wood) \$11,881, Berkeley County Youth Fair (Berkeley) \$10,990, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, 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) \$1,485, 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, Cacapon River Fest (Hampshire) \$2,500, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, 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 Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, 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 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) \$5,000, 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) \$3,200, Covered Bridge Festival (Marion) \$3,000, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair (Doddridge) \$4,158, Durbin Days (Pocahontas) \$2,970, 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) \$1,500, 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 Highlands Art & Music Festival (Hampshire) \$4,252, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Hatfield McCoy

Matewan Reunion Festival (Mingo) \$12,330, 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) \$1,044, Hilltop Festival (Cabell) \$684, 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) \$4,000, 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, Jamboree (Pocahontas) \$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, 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 County) \$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) \$2,970, 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) \$2,970, Lindsie 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) \$5,000, 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, McNeill's Rangers (Mineral) \$4,752, 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, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,988, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, 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) \$2,079, 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) \$2,000, 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, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition (Ritchie) \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$3,000, Rocket Boys Festival (Raleigh) \$1,710, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, 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) \$4,000, St. Albans Train Fest (Kanawha) \$7,000, Sternwheel Festival (Wood) \$1,782, 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, 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.

*310 - Division of Culture and History –**Library Commission -**Lottery Education Fund*

(W.V. Code Chapter 10)

Fund 3559 FY 2024 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

311 - Educational Broadcasting Authority

(W.V. Code Chapter 10)

Fund 3587 FY 2024 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

*312 - Higher Education Policy Commission –**Lottery Education –**Higher Education Policy Commission –**Control Account*

(W.V. Code Chapters 18B and 18C)

Fund 4925 FY 2024 Org 0441

RHI Program and Site Support (R)	03600	\$	1,918,886
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
Minority 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	452,831
Total.....		\$ 3,027,142

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), Minority 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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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, org 0441) established by W.V. Code §18C-6-1.

313 - Community and Technical College –

Capital Improvement Fund

(W.V. Code Chapter 18B)

Fund 4908 FY 2024 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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

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.

314 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(W.V. Code Chapter 18B)

Fund 4185 FY 2024 Org 0463

WVU Health Sciences –

RHI Program and Site

Support (R)	03500	\$	1,223,320

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		1,847,803

Center for Excellence in

Disabilities (R)	96700		<u>321,875</u>

Total		\$	3,782,430

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

315 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(W.V. Code Chapter 18B)

Fund 4896 FY 2024 Org 0471

Marshall Medical School –

RHI Program and Site

Support (R)	03300	\$	444,614

Vice Chancellor for Health

Sciences – Rural Health

Residency Program (R).....	60100		<u>176,614</u>

Total		\$	621,228

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

316 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(W.V. Code Chapter 29)

Fund 5405 FY 2024 Org 0508

Personal Services and

Employee Benefits.....	00100	\$	145,914

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201		70,720

Current Expenses	13000		332,284

Repairs and Alterations.....	06400		1,000

Local Programs

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	23,726,633
Roger Tompkins Alzheimers Respite Care.....	64300	2,306,333
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 Nutrition for Senior Citizens (R).....	91700	<u>6,845,941</u>
Total.....		\$ 62,728,828

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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

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 Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (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>\$ 144,077,498</u>

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.

317 - Governor's Office

(W.V. Code Chapter 5)

Fund 1046 FY 2024 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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

318 - Office of Technology

(W.V. Code Chapter 5A)

Fund 2532 FY 2024 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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

*319 - Department of Economic Development –**Office of the Secretary –**West Virginia Development Office*

(W.V. Code Chapter 5B)

Fund 3170 FY 2024 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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

*320 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2024 Org 0310

	Appropriation	Excess Lottery Funds
Current Expenses (R).....	13000	\$ 23,300
Repairs and Alterations (R)	06400	161,200
Equipment (R).....	07000	200,000
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 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

*321 - West Virginia Infrastructure Council –**West Virginia Infrastructure Transfer Fund*Fund 3390 FY 2024 Org 0316

Directed Transfer	70000	\$	46,000,000

The above appropriation shall be allocated pursuant to W.V. Code §29-22-18d and §31-15-9.

*322 - Department of Education –**School Building Authority*Fund 3514 FY 2024 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, organization 0404) to be used for school construction and maintenance projects.

*323 - Higher Education Policy Commission –**Education Improvement Fund*Fund 4295 FY 2024 Org 0441

PROMISE Scholarship – Transfer	80000	\$	29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) 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.

324 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2024 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, org 0442) as authorized by Senate Concurrent Resolution No. 41.

325 - Higher Education Policy Commission –

Administration –

Control Account

Fund 4932 FY 2024 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

326 - Division of Human Services

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

Fund 5365 FY 2024 Org 0511

Medical Services 18900 \$ 60,716,750

327 - Division of Corrections and Rehabilitation –

Correctional Units

(W.V. Code Chapter 15A)

Fund 6283 FY 2024 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 2023 is hereby reappropriated for expenditure during the fiscal year 2024.

328 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2024 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.

329 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2024 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.

330 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2024 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	1,250,535
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	22,383,247
Total		\$ 61,022,040

331 - Racing Commission

Fund 7308 FY 2024 Org 0707

Special Breeders Compensation		
(W.V. Code §29-22-18a,		
subsection (I))	21800	\$ 2,000,000

332 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2024 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).

333 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2024 Org 0944

Debt Service.....	04000	\$	2,032,000

334 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2024 Org 0944

Debt Service.....	04000	\$	4,395,000

Total TITLE II, Section 5 –

Excess Lottery Funds.....		\$	<u>334,670,790</u>

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 2024.

LEGISLATIVE

335 - Crime Victims Compensation Fund

(W.V. Code Chapter 14)

Fund 8738 FY 2024 Org 2300

	Appropriation	Federal Funds
Economic Loss Claim		
Payment Fund	33400	\$ 900,000

JUDICIAL*336 - Supreme Court*Fund 8867 FY 2024 Org 2400

Personal Services and		
Employee Benefits	00100	\$ 1,813,000
Current Expenses	13000	1,557,000
Repairs and Alterations	06400	100,000
Equipment	07000	250,000
Other Assets	69000	280,000
Total		<u>\$ 4,000,000</u>

EXECUTIVE*337 - Governor's Office –**Coronavirus State Fiscal Recovery Fund*

(W.V. Code Chapter 4)

Fund 8823 FY 2024 Org 0100

Personal Services and		
Employee Benefits	00100	\$ 941,932,089
Unclassified	09900	13,554,899
Current Expenses	13000	400,000,000
Repairs and Alterations	06400	1,000
Equipment	07000	1,000
Other Assets	69000	1,000
Total		<u>\$ 1,355,489,988</u>

338 - Department of Agriculture

(W.V. Code Chapter 19)

Fund 8736 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 2,754,576
Unclassified.....	09900	50,534
Current Expenses	13000	6,828,661
Repairs and Alterations.....	06400	650,000
Equipment.....	07000	910,500
Buildings.....	25800	1,000,000
Other Assets.....	69000	550,000
Land	73000	500,000
Federal Coronavirus Pandemic	89101	4,721,430
Total.....		<u>\$ 17,965,701</u>

339 - Department of Agriculture –

Meat Inspection Fund

(W.V. Code Chapter 19)

Fund 8737 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 710,478
Unclassified.....	09900	8,755
Current Expenses	13000	136,012
Repairs and Alterations.....	06400	5,500
Equipment.....	07000	<u>114,478</u>
Total.....		<u>\$ 975,223</u>

340 - Department of Agriculture –

State Conservation Committee

(W.V. Code Chapter 19)

Fund 8783 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 99,978
Current Expenses	13000	<u>15,599,974</u>
Total.....		<u>\$ 15,699,952</u>

*341 - Department of Agriculture –**Land Protection Authority*Fund 8896 FY 2024 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 46,526
Unclassified.....	09900	5,004
Current Expenses	13000	448,920
Total.....		<u>\$ 500,450</u>

*342 - Attorney General –**Medicaid Fraud Unit*Fund 8882 FY 2024 Org 1500

Personal Services and		
Employee Benefits.....	00100	\$ 1,708,686
Unclassified.....	09900	15,336
Current Expenses	13000	599,513
Repairs and Alterations.....	06400	4,313
Equipment	07000	7,500
Other Assets	69000	11,336
Total.....		<u>\$ 2,346,684</u>

*343 - Secretary of State –**State Election Fund*

(W.V. Code Chapter 3)

Fund 8854 FY 2024 Org 1600

Personal Services and		
Employee Benefits.....	00100	\$ 210,240
Unclassified.....	09900	7,484
Current Expenses	13000	415,727
Repairs and Alterations.....	06400	15,000
Other Assets	69000	100,000
Total.....		<u>\$ 748,451</u>

DEPARTMENT OF COMMERCE*344 - Division of Forestry*

(W.V. Code Chapter 19)

Fund 8703 FY 2024 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 623,959
Unclassified.....	09900	51,050
Current Expenses	13000	3,962,013
Repairs and Alterations	06400	155,795
Equipment	07000	100,000
Other Assets	69000	<u>3,078,847</u>
Total.....		\$ 7,971,664

345 - Geological and Economic Survey

(W.V. Code Chapter 29)

Fund 8704 FY 2024 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 54,432
Unclassified.....	09900	2,803
Current Expenses	13000	195,639
Repairs and Alterations	06400	5,000
Equipment	07000	7,500
Other Assets	69000	<u>15,000</u>
Total.....		\$ 280,374

346 - Division of Labor

(W.V. Code Chapters 21 and 47)

Fund 8706 FY 2024 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 441,444
Unclassified.....	09900	5,572
Current Expenses	13000	167,098

Repairs and Alterations.....	06400		500
Total.....		\$	614,614

347 - Division of Natural Resources

(W.V. Code Chapter 20)

Fund 8707 FY 2024 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	11,177,236
Unclassified.....	09900		107,693
Current Expenses	13000		7,887,660
Repairs and Alterations.....	06400		566,250
Equipment.....	07000		2,126,141
Administration	15500		50,325
Buildings.....	25800		951,000
Other Assets.....	69000		4,768,670
Land	73000		<u>2,893,920</u>
Total.....		\$	30,528,895

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

(W.V. Code Chapter 22)

Fund 8709 FY 2024 Org 0314

Personal Services and			
Employee Benefits.....	00100	\$	680,944
Current Expenses	13000		<u>150,000</u>
Total.....		\$	830,944

349 - WorkForce West Virginia

(W.V. Code Chapter 23)

Fund 8835 FY 2024 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.

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

(W.V. Code Chapter 18)

Fund 8734 FY 2024 Org 0932

Personal Services and

Employee Benefits.....	00100	\$ 12,295,366

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	153,000

Current Expenses	13000	68,440,940

Repairs and Alterations.....	06400	350,400

Equipment.....	07000	<u>1,275,870</u>

Total.....		\$ 82,515,576

*351 - State Board of Rehabilitation –**Division of Rehabilitation Services –**Disability Determination Services*

(W.V. Code Chapter 18)

Fund 8890 FY 2024 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 13,359,886
Current Expenses	13000	13,383,206
Repairs and Alterations.....	06400	1,100
Equipment	07000	<u>83,350</u>
Total.....		\$ 26,827,542

DEPARTMENT OF TOURISM

352 - Department of Tourism –

Tourism Workforce Development Fund

(W.V. Code Chapter 5B)

Fund 8903 FY 2024 Org 0304

Federal Coronavirus Pandemic	89101	\$ 5,148,017

DEPARTMENT OF ECONOMIC DEVELOPMENT

353 - Department of Economic Development –

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 8705 FY 2024 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 1,641,850
Unclassified.....	09900	50,000
Current Expenses	13000	<u>21,304,019</u>
Total.....		\$ 22,995,869

354 - Department of Economic Development –

Office of Energy

(W.V. Code Chapter 5B)

Fund 8892 FY 2024 Org 0307

Personal Services and

Employee Benefits.....	00100	\$	993,648
Unclassified.....	09900		7,350
Current Expenses	13000		<u>8,266,076</u>
Total.....		\$	9,267,074

*355 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity*

(W.V. Code Chapter 5)

Fund 8901 FY 2024 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*356 - State Board of Education –**State Department of Education*

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

Fund 8712 FY 2024 Org 0402

Personal Services and

Employee Benefits.....	00100	\$	6,006,039
Unclassified.....	09900		2,000,000
Current Expenses	13000		1,434,146,008
Repairs and Alterations.....	06400		10,000
Equipment.....	07000		10,000
Other Assets.....	69000		10,000
Federal Coronavirus Pandemic.....	89101		<u>4,990,123</u>
Total.....		\$	1,447,172,170

*357 - State Board of Education –
School Lunch Program*

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

Fund 8713 FY 2024 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,962,329
Unclassified.....	09900	1,150,500
Current Expenses	13000	258,781,265
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	100,000
Other Assets.....	69000	25,000
Federal Coronavirus Pandemic	89101	743,436
Total.....		<u>\$ 262,782,530</u>

*358 - State Board of Education –
Vocational Division*

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

Fund 8714 FY 2024 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,976,812
Unclassified.....	09900	155,000
Current Expenses	13000	20,820,081
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	10,000
Total.....		<u>\$ 22,981,893</u>

*359 - State Board of Education –
Aid for Exceptional Children*

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

Fund 8715 FY 2024 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 3,595,092
Unclassified.....	09900	1,000,000
Current Expenses	13000	133,346,390
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	10,000
Federal Coronavirus Pandemic	89101	<u>17,336,635</u>
Total.....		\$ 155,308,117

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

360 - Division of Culture and History

(W.V. Code Chapter 29)

Fund 8718 FY 2024 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 882,376
Current Expenses	13000	1,947,372
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1,000
Buildings.....	25800	1,000
Other Assets.....	69000	1,000
Land	73000	360
Federal Coronavirus Pandemic	89101	<u>765,400</u>
Total.....		\$ 3,599,508

361 - Library Commission

(W.V. Code Chapter 10)

Fund 8720 FY 2024 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 376,710
Current Expenses	13000	1,076,162
Equipment.....	07000	543,406
Federal Coronavirus Pandemic	89101	<u>2,388,880</u>
Total.....		\$ 4,385,158

362 - Commission for National and Community Service

(W.V. Code Chapter 5F)

Fund 8841 FY 2024 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 458,335
Current Expenses	13000	5,587,325
Repairs and Alterations.....	06400	1,000
Federal Coronavirus Pandemic	89101	<u>1,960,558</u>
Total.....		\$ 8,007,218

363 - National Coal Heritage Area Authority

(W.V. Code Chapter 29)

Fund 8869 FY 2024 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 198,501
Current Expenses	13000	328,008
Repairs and Alterations.....	06400	5,000
Equipment	07000	3,000
Other Assets.....	69000	<u>2,000</u>
Total.....		\$ 536,509

DEPARTMENT OF ENVIRONMENTAL PROTECTION*364 - Division of Environmental Protection*

(W.V. Code Chapter 22)

Fund 8708 FY 2024 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 36,118,029
Unclassified.....	09900	1,923,580
Current Expenses	13000	347,447,019
Repairs and Alterations.....	06400	739,783
Equipment.....	07000	1,712,238
Other Assets.....	69000	<u>2,177,261</u>

Land	73000	<u>80,000</u>
Total.....		\$ 390,197,910

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

Personal Services and		
Employee Benefits.....	00100	\$ 1,701,896
Unclassified.....	09900	73,307
Current Expenses	13000	92,583,302
Federal Coronavirus Pandemic	89101	<u>4,886,344</u>
Total.....		\$ 99,244,849

366 - Division of Health –

Central Office

(W.V. Code Chapter 16)

Fund 8802 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 20,144,404
Unclassified.....	09900	856,614
Current Expenses	13000	152,758,622
Equipment.....	07000	456,972
Buildings	25800	155,000
Other Assets.....	69000	380,000
Federal Coronavirus Pandemic	89101	<u>195,982,333</u>
Total.....		\$ 370,733,945

367 - Division of Health –

West Virginia Safe Drinking Water Treatment

(W.V. Code Chapter 16)

Fund 8824 FY 2024 Org 0506

West Virginia Drinking

Water Treatment Revolving

Fund – Transfer..... 68900 \$ 80,753,300

368 - Human Rights Commission

(W.V. Code Chapter 5)

Fund 8725 FY 2024 Org 0510

Personal Services and

Employee Benefits..... 00100 \$ 466,840

Unclassified..... 09900 5,050

Current Expenses 13000 64,950

Total..... \$ 536,840

369 - Division of Human Services

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

Fund 8722 FY 2024 Org 0511

Personal Services and

Employee Benefits..... 00100 \$ 83,474,243

Unclassified..... 09900 22,855,833

Current Expenses 13000 162,181,984

Medical Services..... 18900 4,151,432,776

Medical Services

Administrative Costs 78900 133,070,682

CHIP Administrative Costs..... 85601 4,559,061

CHIP Services..... 85602 54,410,807

Federal Economic Stimulus 89100 2,456

Federal Coronavirus Pandemic 89101 51,642,105

Total..... \$ 4,663,629,947

DEPARTMENT OF HOMELAND SECURITY*370 - Division of Emergency Management*

(W.V. Code Chapter 15)

Fund 8727 FY 2024 Org 0606

Personal Services and		
Employee Benefits.....	00100	\$ 1,658,977
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	61,250
Current Expenses	13000	20,429,281
Repairs and Alterations.....	06400	5,000
Equipment	07000	100,000
Total.....		<u>\$ 22,254,508</u>

371 - Division of Corrections and Rehabilitation

(W.V. Code Chapters 15A)

Fund 8836 FY 2024 Org 0608

Unclassified.....	09900	\$ 1,100
Current Expenses	13000	<u>108,900</u>
Total.....		<u>\$ 110,000</u>

372 - West Virginia State Police

(W.V. Code Chapter 15)

Fund 8741 FY 2024 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 2,512,971
Current Expenses	13000	2,250,971
Repairs and Alterations.....	06400	42,000
Equipment	07000	13,356,035
Buildings	25800	1,740,500
Other Assets.....	69000	1,065,750
Land	73000	500
Total.....		<u>\$ 20,968,727</u>

373 - Fire Commission

(W.V. Code Chapter 29)

Fund 8819 FY 2024 Org 0619

Personal Services and		
Employee Benefits.....	00100	\$ 551,394
Current Expenses	13000	5,448,106
Repairs and Alterations	06400	500
Total.....		<u>\$ 6,000,000</u>

*377 - Division of Multimodal Transportation Facilities -**Public Transit*

(W.V. Code Chapter 17)

Fund 8745 FY 2024 Org 0810

Personal Services and		
Employee Benefits.....	00100	\$ 1,062,407
Current Expenses	13000	19,863,149
Repairs and Alterations.....	06400	2,500
Equipment.....	07000	3,501,714
Buildings.....	25800	2,450,000
Other Assets.....	69000	<u>250,000</u>
Total.....		\$ 27,129,770

*378 - Division of Multimodal Transportation Facilities -**Aeronautics Commission*

(W.V. Code Chapter 29)

Fund 8831 FY 2024 Org 0810

Current Expenses	13000	\$ 400,000
Other Assets.....	69000	<u>100</u>
Total.....		\$ 400,100

DEPARTMENT OF VETERANS' ASSISTANCE*379 - Department of Veterans' Assistance*

(W.V. Code Chapter 9A)

Fund 8858 FY 2024 Org 0613

Personal Services and		
Employee Benefits.....	00100	\$ 3,130,016
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	57,120
Current Expenses	13000	2,840,300

Repairs and Alterations.....	06400	20,000
Equipment.....	07000	25,000
Buildings.....	25800	22,750,000
Land.....	73000	500
Veterans' Cemetery.....	80800	175,000
Federal Coronavirus Pandemic.....	89101	<u>1,900,000</u>
Total.....		\$ 30,897,936

380 - Department of Veterans' Assistance –

Veterans' Home

(W.V. Code Chapter 9A)

Fund 8728 FY 2024 Org 0618

Personal Services and		
Employee Benefits.....	00100	\$ 995,321
Current Expenses.....	13000	595,700
Repairs and Alterations.....	06400	60,500
Equipment.....	07000	10,500
Buildings.....	25800	500
Other Assets.....	69000	6,500
Land.....	73000	100
Federal Coronavirus Pandemic.....	89101	<u>1,600,000</u>
Total.....		\$ 3,269,121

BUREAU OF SENIOR SERVICES

381 - Bureau of Senior Services

(W.V. Code Chapter 29)

Fund 8724 FY 2024 Org 0508

Personal Services and		
Employee Benefits.....	00100	\$ 804,860
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	8,840
Current Expenses.....	13000	13,811,853
Repairs and Alterations.....	06400	<u>3,000</u>
Total.....		\$ 14,628,553

MISCELLANEOUS BOARDS AND COMMISSIONS*382 - Adjutant General –**State Militia*

(W.V. Code Chapter 15)

Fund 8726 FY 2024 Org 0603

Unclassified.....	09900	\$	982,705
Mountaineer ChalleNGe Academy.....	70900		11,896,281
Martinsburg Starbase	74200		566,904
Charleston Starbase.....	74300		533,211
Military Authority.....	74800		88,956,147
Total.....		\$	102,935,248

The Adjutant General shall have the authority to transfer between appropriations.

*383 - Adjutant General –**West Virginia National Guard Counterdrug Forfeiture Fund*

(W.V. Code Chapter 15)

Fund 8785 FY 2024 Org 0603

Personal Services and			
Employee Benefits.....	00100	\$	1,350,000
Current Expenses	13000		150,000
Repairs and Alterations.....	06400		50,000
Equipment.....	07000		200,000
Buildings	25800		100,000
Other Assets.....	69000		100,000
Land	73000		50,000
Total.....		\$	2,000,000

*384 - Public Service Commission –**Motor Carrier Division*

(W.V. Code Chapter 24A)

Fund 8743 FY 2024 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 1,460,622
Current Expenses	13000	368,953
Repairs and Alterations.....	06400	39,000
Equipment.....	07000	<u>1,000</u>
Total.....		\$ 1,869,575

*385 - Public Service Commission –**Gas Pipeline Division*

(W.V. Code Chapter 24B)

Fund 8744 FY 2024 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 655,854
Unclassified.....	09900	4,072
Current Expenses	13000	124,628
Equipment.....	07000	<u>3,000</u>
Total.....		\$ 787,554

386 - Economic Development Authority

(W.V. Code Chapter 31)

Fund 8893 FY 2024 Org 0944

Current Expenses	13000	5,000,000
Total TITLE II, Section 6 –		
Federal Funds.....		<u>\$ 9,443,163,508</u>

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 2024.

*387 - Department of Economic Development –**Office of the Secretary –**Community Development*Fund 8746 FY 2024 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

*388 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2024 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 771,289
Unclassified.....	09900	125,000
Current Expenses	13000	17,781,811
Repairs and Alterations.....	06400	1,500
Equipment.....	07000	<u>9,000</u>
Total.....		\$ 18,688,600

*389 - WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2024 Org 0323

Personal Services and		
Employee Benefits.....	00100	\$ 2,981,825
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	124,018

2023]	HOUSE OF DELEGATES	2455

Unclassified.....	09900	23,023
Current Expenses	13000	63,381,511
Repairs and Alterations.....	06400	1,600
Equipment.....	07000	500
Buildings	25800	1,100
Total.....		\$ 66,513,577

390 - Division of Health –

Maternal and Child Health

Fund 8750 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 2,412,071
Unclassified.....	09900	81,439
Current Expenses	13000	5,794,267
Total.....		\$ 8,287,777

391 - Division of Health –

Preventive Health

Fund 8753 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 278,481
Unclassified.....	09900	22,457
Current Expenses	13000	1,895,366
Equipment.....	07000	165,642
Total.....		\$ 2,361,946

392 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 705,630
Unclassified.....	09900	115,924
Current Expenses	13000	10,853,740

Federal Coronavirus Pandemic	89101	<u>14,973,256</u>
Total.....		\$ 26,648,550

393 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2024 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 590,137
Unclassified.....	09900	33,533
Current Expenses	13000	4,883,307
Federal Coronavirus Pandemic	89101	<u>12,483,247</u>
Total.....		\$ 17,990,224

394 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2024 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 2,572,965
Unclassified.....	09900	350,000
Current Expenses	13000	44,952,003
Federal Coronavirus Pandemic	89101	<u>22,832,540</u>
Total.....		\$ 70,707,508

395 - Division of Human Services –

Social Services

Fund 8757 FY 2024 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 9,381,007
Unclassified.....	09900	171,982
Current Expenses	13000	<u>8,870,508</u>
Total.....		\$ 18,423,497

*396 - Division of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2024 Org 0511

Personal Services and

Employee Benefits.....	00100	\$ 21,939,537
Unclassified.....	09900	1,250,000
Current Expenses	13000	105,871,588
Federal Coronavirus Pandemic	89101	<u>4,617,546</u>
Total.....		\$ 133,678,671

*397 - Division of Human Services –**Child Care and Development*Fund 8817 FY 2024 Org 0511

Personal Services and

Employee Benefits.....	00100	\$ 3,584,890
Unclassified.....	09900	350,000
Current Expenses	13000	57,150,000
Federal Coronavirus Pandemic	89101	<u>170,000,000</u>
Total.....		\$ 231,084,890

Total TITLE II, Section 7 –

Federal Block Grants	<u>\$ 831,899,732</u>

Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2024, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$709,597, special revenue funds in the amount of \$397,169 and state road funds in the amount of \$515,660 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 2024 out of surplus funds only, accrued from

the fiscal year ending June 30, 2023, 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, 2023 from the fiscal year ending June 30, 2023, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2023, 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.

398 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2024 Org 0310

Capital Outlay, Repairs and

Equipment - Surplus	67700	\$	52,000,000
Current Expenses – Surplus	13099		<u>900,000</u>
Total.....		\$	52,900,000

399 - Department of Transportation

Division of Highways

(WV Code Chapter 17 and 17C)

Fund 0620 FY 2024 Org 0803

Directed Transfer - Surplus.....	70099	\$	10,000,000

The above appropriation for Directed Transfer – Surplus (fund 0620, appropriation 70099) shall be transferred to Division of Highways (fund 9017, appropriation 23700).

*400 - Department of Tourism –**Office of the Secretary**(WV Code Chapter 5B)*Fund 0246 FY 2024 Org 0304

Tourism – Brand Promotion –

Surplus	61893	\$	7,000,000

Tourism – Industry Development –

Surplus	61896		8,000,000

Total		\$	15,000,000

*401 - Governor's Office –**Civil Contingent Fund**(WV Code Chapter 5)*Fund 0105 FY 2024 Org 0100

Federal Funds/Grant Match –

Surplus	85700	\$	282,000,000

The funds shall be used for the purpose of grants to address deferred maintenance issues at the State's Colleges, Universities and Community and Technical Schools, and for deferred maintenance at the State's correctional units. They may also be used for federal grant and match programs that may become available to the State.

*402 - Division of Culture and History**(WV Code Chapter 29)*Fund 0293 FY 2024 Org 0432

Current Expenses - Surplus	13099	\$	2,200,000

*403 - State Board of Education –**School Building Authority*

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

Fund 0318 FY 2024 Org 0404

School Building Authority –

Surplus XXXXX \$ 40,000,000

The above appropriation for School Building Authority – Surplus (fund 0318, appropriation XXXXX), shall be transferred to the School Construction Fund (3952).

404 - Higher Education Policy Commission -

Administration -

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2024 Org 0441

Nursing Program Expansion

Support -Surplus XXXXX \$ 20,000,000

405 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2024 Org 0402

Jobs & Hope - Surplus XXXXX \$ 1,600,000

406 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2024 Org 1400

Soil Conservation Projects –

Surplus 26900 \$ 21,060,000

*407 - Department of Economic Development -**Office of the Secretary**(WV Code Chapter 5B)*Fund 0256 FY 2024 Org 0307

Directed Transfer– Surplus	70099	\$	38,000,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to Water Development Authority (fund 3382).

*408 - Department of Administration –**Division of General Services**(W.V. Code Chapter 5A)*Fund 0230 FY 2024 Org 0211

Capital Outlay, Repairs and Equipment - Surplus	67700	\$	5,000,000

The above appropriation for Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700) shall be expended for the Holly Grove Mansion.

*409 - Department of Economic Development –**Office of the Secretary**(WV Code Chapter 5B)*Fund 0256 FY 2024 Org 0307

Current Expenses - Surplus.....	13099	\$	500,000
WV Land Stewardship Corporation - Surplus	xxxxx		1,500,000
Directed Transfer – Surplus	70099		35,000,000
Back Roads to Appalachia - Surplus....	xxxxx		200,000
Total.....		\$	37,200,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the WVEDA Credit Insurance Fund (fund 9063)

410 - Governor's Office -

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2024 Org 0100

Civil Contingent Fund – Surplus	26300	\$	500,000

411 - Department of Homeland Security -

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2024 Org 0601

Current Expenses – Surplus	13099	\$	800,000

412 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2024 Org 0603

Armory Board Transfer - Surplus	70299	\$	3,318,000
Civil Air Patrol – Surplus	23499		<u>1,400,000</u>
Total.....		\$	4,718,000

413 - Division of Health -

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2024 Org 0506

Directed Transfer - Surplus..... 70099 \$ 10,000,000

The above appropriation for Directed Transfer – Surplus (fund 0407, appropriation 70099) shall be transferred to the Emergency Medical Services Salary Enhancement Fund, Current Expenses (fund xxxx, appropriation 13000).

414 - Department of Commerce –

Office of the Secretary

(W.V. Code Chapter 19)

Fund 0606 FY 2024 Org 0327

Jobs for WV Graduates - Surplus xxxxx \$ 1,000,000

415 - Division of Multimodal Transportation Facilities -

Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2024 Org 0810

Current Expenses - Surplus..... 13099 \$ 1,000,000

416 - Division of Health -

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2024 Org 0506

Current Expenses - Surplus..... 13099 \$ 2,000,000

The above appropriation for Current Expenses – Surplus (fund 0407, appropriation 13099) shall be used for the Hardy County Health Department.

417 - Department of Administration -

Office of the Secretary

(WV Code Chapters 5F)

Fund 0186 FY 2024 Org 0201

Directed Transfer - Surplus..... 70099 \$ 500,000

The above appropriation for Directed Transfer – Surplus (fund 0204, appropriation 70099) shall be transferred to the Department of Administration, Office of Technology – Chief Officer Administration Fund (fund 2531).

418 - State Board of Education -

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2024 Org 0403

Fire Protection - Surplus XXXXX \$ 500,000

419 - Department of Revenue -

Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2024 Org 0701

Directed Transfer - Surplus..... 70099 \$ 400,000,000

The above appropriation for Directed Transfer – Surplus (fund 0465, appropriation 70099), shall be transferred to the Personal Income Tax Reserve Fund (fund 1313).

420 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2024 Org 0211

Consolidated State

Laboratory - Surplus..... XXXXX \$ 125,000,000

The above appropriation shall only be used for the construction of a consolidated laboratory facility to be used by the West Virginia State Police, Department of Agriculture and the Department of Health and Human Resources.

421 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2024 Org 0476

West Virginia School of

Osteopathic Medicine - Surplus..... 17299 \$ 29,000,000

422 - West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2024 Org 0463

National Cancer Institute - Surplus..... xxxxx \$ 50,000,000

423 - Division of Culture and History

(W.V. Code Chapter 29)

Fund 0293 FY 2024 Org 0432

Educational Enhancements –

Surplus 92700 \$ 500,000

The above appropriation for Educational Enhancements – Surplus (fund 0293, appropriation 92700) shall be used for Save the Children.

424 - Governor's Office –

(WV Code Chapter 5)

Fund 0101 FY 2024 Org 0100

Posey Perry Emergency Food

Bank Fund - Surplus XXXXX \$ 10,000,000

*425 - State Board of Education –**State Department of Education**(WV Code Chapters 18 and 18A)*Fund 0313 FY 2024 Org 0402

Communities in Schools - Surplus XXXXX \$ 5,000,000

Total TITLE II, Section 9 –

General Revenue

Surplus Accrued \$ 1,165,478,000

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 2024 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2023, 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, 2023.

In the event that surplus revenues available from the fiscal year ending June 30, 2023, 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.

*426 - Bureau of Senior Services –**Lottery Senior Citizens Fund**(WV Code Chapter 29)*Fund 5405 FY 2024 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 2024 out of surplus funds only, as determined by the Director of Lottery, accrued from the fiscal year ending June 30, 2023, 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, 2023.

In the event that surplus revenues available from the fiscal year ending June 30, 2023, 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.

*427 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7308 FY 2024 Org 0707

Directed Transfer	70000	\$ 800,000

The above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

428 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services – Lottery

Surplus.....	68100	\$	17,000,000

Total TITLE II, Section 11 –

Surplus Accrued.....		\$	<u>17,800,000</u>

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2024 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. Va. 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 2024, 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 2024 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.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 623**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dillon, Foster, Kirby, E. Pritt, Pushkin and Vance.

Absent and Not Voting: Hillenbrand, Mallow and Ridenour.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2024) passed.

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

On this question, the yeas and nays were taken (**Roll No. 624**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon, Kirby and Vance.

Absent and Not Voting: Hillenbrand, Mallow, Ridenour and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2024) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2004, Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct.

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

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

**“ARTICLE 2A. MAXWELL GOVERNMENTAL ACCESS
TO FINANCIAL RECORDS ACT.**

§31A-2A-4. Exceptions.

(a) Nothing in this article is intended to, or shall prohibit, apply to, or interfere with:

(1) The lawful authority or ability of the commissioner of banking or any other state or federal regulatory agency of a bank, savings and loan association, trust company, or credit union to obtain or to share between such regulatory agencies any records

which the commissioner of banking or such state or federal regulatory agency may deem appropriate for the examination and regulation of the financial institution: Provided, That nothing in this subdivision permits disclosure of protected financial information in violation of §31A-2B-1 et seq. of this code;

(2) The lawful authority or ability of the ~~Commissioner of Insurance~~ Commissioner or the State Auditor to obtain any records from a financial institution relating to the financial institution's sale of insurance or securities;

(3) The dissemination or publication of information derived from financial records if the information cannot be identified to any particular customer, deposit, or account, or if the information is in composite form and is not disseminated or published in a way which identifies any particular customer, deposit, or account;

(4) The making of reports or returns specifically required or permitted by federal or state law, including applicable tax law or regulations;

(5) The disclosure of any information under the provisions of the uniform commercial code governing the dishonor of a negotiable instrument, or the disclosure to any purported state entity payee or to any purported state entity holder of a check, draft, order, or other item, whether or not such instrument has been accepted by such payee or holder as payment, as to whether or not such instrument would be honored if presented at the time of such disclosure;

(6) A state entity obtaining a credit report or consumer credit report from anyone other than a financial institution;

(7) The exchange, in the regular course of business, of information showing the outstanding balance of a mortgage loan account in connection with a sale, refinancing, or foreclosure of real property in a transaction to which the state entity is a party; or the disclosure, in the regular course of business, of information on a mortgage or deed of trust on a subject property to a state entity as

holder of any subordinate mortgage, deed of trust or security interest;

(8) The disclosure to the Department of Health and Human Resources, upon written request, of an individual's financial records which the department determines are necessary to verify or confirm the individual's eligibility or ineligibility for public assistance;

(9) The disclosure of an individual's financial records in response to a written request by the Department of Health and Human Resources, as authorized by the federal parent locator service of the United States Department of Health and Human Services;

(10) The examination or audit of financial records relating to preneed funeral trust accounts pursuant to §47-14-1 *et seq.* of this code;

(11) The disclosure of financial records relating to unclaimed property pursuant to §36-8-1 *et seq.* of this code, including the examination of financial records by the State Treasurer or his or her agent to determine compliance with the handling and reporting of unclaimed property as provided by, and subject to, the limitations set forth in §36-8-20 of this code;

(12) The presentation to appropriate local, state, or federal law-enforcement authorities of a certificate under oath by an authorized representative of a financial institution drawee that declares the dishonor of the check, draft, or order by the drawee, the lack of an account with the drawee at the time of utterance or the insufficiency of the drawer's funds at the time of presentation and utterance in connection with any criminal action for obtaining property or services by a worthless check, draft, or order;

(13) The notification to appropriate local, state, or federal law-enforcement authorities or regulatory agencies that the financial institution, its officers, employees or agents thereof have information which may be relevant to a possible violation of any statute or regulation: Provided, That nothing in this subdivision

permits disclosure of protected financial information in violation of §31A-2B-1 et seq. of this code. The disclosure of any information pursuant to this subdivision may only include the name or other identifying information concerning any individual, corporation, or account involved in and the nature of any suspected illegal activity;

(14) The disclosure of information or records by a financial institution to any court or other appropriate state entity which is incidental to recording a lien, perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary;

(15) The disclosure of information or records by a financial institution which is incidental to processing an application for assistance to a customer in the form of a government loan, loan guaranty, or loan insurance agreement, or which is incidental to processing a default on, or administering, a government guaranteed or insured loan or to initiating contact with an appropriate state entity for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement;

(16) The disclosure of information incidental to a transaction in the normal course of business of the financial institution where there is no reasonable cause to believe that the information is intended to be used by the state entity in connection with an investigation of the customer;

(17) The preparation, review, handling, or maintenance of financial records in the ordinary course of business by any officer, employee, or agent of a financial institution having custody of the records; or

(18) The disclosure to appropriate law-enforcement officials of the financial records of any officer, director, employee, or controlling shareholder of a financial institution by a financial institution or by any state or federal regulatory agency having authority to regulate the financial institution, if there is reason to believe that the financial record is relevant to a possible violation

by such person of any law relating to a crime against the financial institution or any such state or federal regulatory agency. No state or federal regulatory agency which discloses any information pursuant to this subdivision shall be deemed to have waived any privilege applicable to that record under law.

(b) Nothing in this article shall preclude a state entity from obtaining information that is public record without regard to this article although the information may have been derived from financial records.

(c) Nothing in this article shall preclude a state entity from obtaining information or financial records voluntarily submitted to it by others in an attempt to seek governmental assistance or redress of a grievance, including legislative change: *Provided*, That the financial record or information was not solicited by the state entity in an effort to evade the requirements of this article or submitted by a financial institution in contravention of §31A-2A-7 of this code.

(d) Notwithstanding the exceptions set forth in this section, a financial institution may not disclose financial records to a state entity and a state entity may not compel disclosure of financial records in a manner that singles out or discriminates against any person based on activity protected by the Second Amendment to the United States Constitution or Section 22, Article III of the West Virginia Constitution.

ARTICLE 2B. THE SECOND AMENDMENT FINANCIAL PRIVACY ACT.

§31A-2B-1. Short title.

This article shall be known and may be cited as the ‘Second Amendment Financial Privacy Act.’

§31A-2B-2. Findings and intent.

(a) The Legislature finds that:

(1) The Second Amendment to the United States Constitution guarantees the people the right to keep and bear arms;

(2) Section 22, Article III of the West Virginia Constitution provides that "[a] person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use";

(3) In September of 2022, the International Organization for Standardization, based in Switzerland, approved a unique Merchant Category Code for firearm and ammunition retailers;

(4) Later in September of 2022, the world's three largest payment card networks publicly announced they would assign the new Merchant Category Code to firearms retailers accepting payment cards for purchases, after 28 members of Congress sent a public letter to networks, pressuring them to adopt the new code;

(5) In the letter to payment card networks, federal lawmakers stated that the new Merchant Category Code for firearms retailers would be "[...] the first step towards facilitating the collection of valuable financial data that could help law enforcement in countering the financing of terrorism efforts", expressing a clear government expectation that networks will utilize the new Merchant Category Code to conduct mass surveillance of constitutionally protected firearms, firearm accessories or components, and ammunition purchases in cooperation with law enforcement;

(6) The new Merchant Category Code will allow the banks, payment card networks, acquirers, and other entities involved in payment card processing to identify and separately track lawful payment card purchases at firearms retailers in West Virginia, paving the way for both unprecedented surveillance of Second Amendment activity and unprecedented information sharing between financial institutions and the government;

(7) This potential for cooperative surveillance and tracking of lawful firearms, firearm accessories or components, and ammunition purchases will have a significant chilling effect on

citizens wishing to exercise their federal and state constitutional rights to keep and bear arms in West Virginia;

(8) While federal law requires some financial institutions to report transactions that are highly indicative of money laundering or other unlawful activities, there is no federal or state law authorizing financial institutions to surveil and track lawful activities by customers in cooperation with law enforcement; in fact, both the federal Right to Financial Privacy Act and West Virginia's Maxwell Governmental Access to Financial Records Act prohibit financial institutions from disclosing a customer's financial records except in limited circumstances; and

(9) This article should be construed as a generally applicable consumer financial protection law that does not prevent or significantly interfere with the duly authorized powers of any bank, nor does this article directly or indirectly discriminate against any bank based on its charter or structure.

(b) Based on the above-stated findings, it is the intent of the Legislature to prohibit the misuse of payment card processing systems to surveil, report, or otherwise discourage constitutionally protected firearm, firearm accessories or components, and ammunition purchases and sales within West Virginia's jurisdiction.

§31A-2B-3. Definitions.

(a) The terms used in this article shall have the same meaning provided in §31A-2A-1 of this code, unless otherwise specified in this section.

(b) For the purposes of this article, the following terms have the following meanings:

(1) 'Ammunition' means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(2) 'Assign' or 'assignment' refers to a financial institution policy, process, or practice that labels, links, or otherwise

associates a firearms code with a merchant or payment card transaction in a manner that allows the financial institution or any other entity facilitating or processing the payment card transaction to identify whether a merchant is a firearms retailer or whether a transaction involves the sale of firearms, firearm accessories or components, or ammunition.

(3) ‘Customer’, in addition to the definition provided in §31A-2A-1(a) of this code, includes any person who presents a payment card to a merchant for the purchase of goods or services.

(4) ‘Disclosure’ means the transfer, publication, or distribution of protected financial information to another person for any purpose other than to process or facilitate a payment card transaction.

(5) ‘Financial institution’, in addition to the definition provided in §31A-2A-1(b) of this code, includes an entity other than a merchant involved in facilitating or processing a payment card transaction, including, but not limited to, a bank, acquirer, gateway, payment card network, or payment card issuer.

(6) ‘Financial record’, in addition to the definition provided in §31A-2A-1(c) of this code, includes a financial record held by a financial institution related to a payment card transaction that the financial institution has processed or facilitated.

(7) ‘Firearm’ has the same meaning as that term is defined in §61-7-2 of this code and includes antique firearms.

(8) ‘Firearm accessories or components’ means:

(A) Any device specifically adapted to enable the wearing or carrying about one’s person or the storage or mounting in or on any conveyance of a firearm and any attachment or device specifically adapted to be inserted into or affixed onto any firearm to enable, alter, or improve the functioning or capabilities of the firearm;

(B) Any item that is used in conjunction with or mounted upon a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket

stocks and grips, speedloaders, braces, ammunition carriers, and lights for target illumination; and

(C) Any component for making ammunition, reloading materials and equipment, machinery, and tools for manufacturing ammunition.

(9) 'Firearms code' means any code or other indicator a financial institution assigns to a merchant or to a payment card transaction that identifies whether a merchant is a firearms retailer or whether the payment card transaction involves the purchase of a firearm, firearm accessories or components, or ammunition. The term includes, but is not limited to, a Merchant Category Code assigned to a retailer by a payment card network or other financial institution.

(10) 'Firearms retailer' means any person engaged in the lawful business of selling or trading firearms or antique firearms, as those terms are defined in §61-7-2 of this code, firearm accessories or components, or ammunition to be used in firearms or antique firearms.

(11) 'Government entity' means any state or local government agency or instrumentality thereof, located in West Virginia.

(12) 'Merchant' means a person or entity that accepts payment cards from customers for the purchase of goods or services. The term includes a firearms retailer that accepts payment cards for the lawful purchase of firearms, firearm accessories or components, or ammunition.

(13) 'Payment card' means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to purchase goods or services from a merchant.

(14) 'Protected financial information' means any record of a sale, purchase, return, or refund involving a payment card that is retrieved, characterized, generated, labeled, sorted, or grouped based on the assignment of a firearms code. A 'customer's protected financial information' refers to protected financial

information appearing in a financial institution's records pertaining to a customer.

§31A-2B-4. Protected financial information.

A financial institution is prohibited from disclosing a customer's protected financial information to a government entity and a government entity is prohibited from accessing or obtaining said information unless:

(1) Disclosure is expressly permitted by §31A-2A-4 of this code and the protected financial information is not singled out, segregated, or disclosed based on the assignment of a firearms code;

(2) Disclosure is made pursuant to a valid warrant issued in a criminal investigation, stating the grounds or probable cause for its issuance, and otherwise meeting the requirements of §62-1A-3 of this code;

(3) The customer has provided written authorization for disclosure, according to the requirements of §31A-2B-5 of this code;

(4) Disclosure is made pursuant to a subpoena meeting the requirements of §31A-2A-5 and §31A-2B-6 of this code or to a grand jury subpoena meeting the requirements of §31A-2A-6 of this code; or

(5) The financial institution discloses only the following information:

(A) That the financial institution is not in possession of the protected financial information; and

(B) The identity of the entity that is in possession of the requested protected financial information.

§31A-2B-5. Written authorization for disclosure.

(a) Notwithstanding §31A-2B-4 of this code, a financial institution may disclose a customer's protected financial

information to a government entity if the customer provides the financial institution with written authorization for said disclosure. The written authorization described by this section must contain the following:

(1) A statement that the customer consents to the disclosure of the protected financial information, along with the definition provided in §31A-2B-3(14) of this code, for a specific period;

(2) A statement that the customer has the right to refuse to consent to disclosure;

(3) A statement that the customer understands his or her right to revoke said consent at any time before the protected financial information is disclosed;

(4) A description of the financial records authorized to be disclosed;

(5) The purpose for which disclosure of the protected financial information is authorized;

(6) The recipient or recipients of the disclosure; and

(7) The customer's signature.

(b) The written authorization described in this section may not be required as a condition of doing business or transacting with any financial institution.

(c) The written authorization required by this section must be executed distinctly and separately from other agreements or instruments entered into between the customer and financial institution.

§31A-2B-6. Additional requirements for subpoenas.

A subpoena issued by a government entity that specifically requires disclosure of protected financial information must meet the following requirements, in addition to the requirements of §31A-2A-5 of this code:

(1) The subpoena must state that protected financial information is being sought, along with the definition provided in §31A-2B-3(14) of this code;

(2) A copy of the subpoena must be served upon the customer according to the procedure provided in §31A-2A-5 of this code and the subpoena must contain a certification that said service was executed; and

(3) A copy of the subpoena must be served by the government entity upon the Consumer Protection Division of the West Virginia Attorney General's Office on the same day the subpoena is served upon the customer whose protected financial data is being sought and the subpoena must contain a certification that said service was executed.

§31A-2B-7. Use of protected financial information for discriminatory purpose.

A financial institution may not use a firearms code to engage in the following discriminatory conduct:

(1) Declining a lawful payment card transaction based on the assignment of a firearms code to the merchant or transaction;

(2) Limiting or declining to do business with a customer, potential customer, or merchant based on the assignment of a firearms code to previous lawful transactions involving the customer, potential customer, or merchant;

(3) Charging a higher transaction or interchange fee to any merchant or for a lawful transaction, as compared to the fee charged to a similarly situated merchant or for a similar transaction, based on the assignment of a firearms code; or

(4) Otherwise taking any action against a customer or merchant that is intended to suppress lawful commerce involving firearms, firearm accessories or components, or ammunition.

§31A-2B-8. Civil remedies.

(a) Subject to subsection (c) of this section, a customer may bring a civil action for damages, injunctive relief, or both damages and injunctive relief against any financial institution or government entity that causes the customer's protected financial information to be disclosed in violation of this article. For each violation, the individual may recover:

(1) Against any person who negligently or recklessly violates this article, liquidated damages of \$10,000 or actual damages, whichever is greater; or

(2) Against any person who intentionally violates this article, liquidated damages of \$25,000 for each or actual damages, whichever is greater.

(b) Subject to subsection (c) of this section, a customer or merchant aggrieved by a violation of §31A-2B-7 of this code may bring a civil action for damages, injunctive relief, or both damages and injunctive relief. Said person may recover liquidated damages of \$50,000 or actual damages, whichever is greater.

(c) Right to cure. – Prior to an aggrieved party bringing a civil action pursuant to this section, a financial institution shall have the right to cure an alleged violation of this section, according to the procedures, restrictions, and requirements set forth in §46A-5-108(a) of this code: *Provided*, That both parties must follow the procedures set forth therein.

(d) Attorney's fees. – If a court finds that a violation of this article has occurred as the result of a civil action brought pursuant to subsection (a) or subsection (b) of this section, the court shall award reasonable attorney's fees to the aggrieved party. An award of attorney's fees is subject to the same limitations set forth in §46A-5-108(f) of this code.

(e) Statute of Limitations. – Any action under this article is barred unless the action is commenced within five years after the aggrieved party knows or reasonably should know of the violation. The statute of limitations provided herein is tolled for the 45-day

period set forth in §46A-5-108(a) of this code or for the period the effectuation of the cure offer is being performed, whichever is longer.

(f) The remedies provided in this article are the exclusive civil remedies available to an aggrieved party for violations of this article.

§31A-2B-9. Enforcement; contractual authority of the State.

(a) Notwithstanding any other provisions of this chapter, the Commissioner of Banking is authorized to administratively enforce the requirements of this article consistent with §31A-2-4 of this code.

(b) The Attorney General is authorized to investigate compliance with this article and may bring a civil action for injunctive relief to judicially enforce this article: *Provided*, That with regard to a national bank, the Attorney General is authorized to conduct investigations and take judicial enforcement action only to the extent permitted by 12 U.S.C. §25b(i). Upon awarding an injunction against a financial institution as the result of a judicial enforcement action pursuant to this subsection, a court may award the Attorney General reasonable attorney's fees.

(c) In selecting a financial institution to provide a financial service or product to the state related to payment card processing, the State Treasurer may disqualify a financial institution from the competitive bidding process or from any other official selection process if:

(1) During the past five years, a court of competent jurisdiction has entered an order or opinion finding that the financial institution violated this article;

(2) During the past five years, the Commissioner of Banking or the Attorney General, as the result of an investigation, has determined that a financial institution has violated this article;

(3) During the past five years, the financial institution has admitted to violating this article in the records of a court or other official proceeding; or

(4) The financial institution has publicly stated that it has adopted or intends to adopt policies or practices that violate this article.

§31A-2B-10. Scope and Severability.

(a) Nothing in this article may be construed or applied in a manner that violates or conflicts with superseding federal law.

(b) The sections and provisions of this article are severable. If any section or provision of this article is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the other sections and provisions of this article, which shall remain in full force and effect.

And,

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

Com. Sub. for H. B. 2004 – “A Bill to amend and reenact §31A-2A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §31A-2B-1, §31A-2B-2, §31A-2B-3, §31A-2B-4, §31A-2B-5, §31A-2B-6, §31A-2B-7, §31A-2B-8, §31A-2B-9, and §31A-2B-10, all relating generally to payment card transactions involving firearm, firearm accessory or component, and ammunition retailers; clarifying that financial records may not be disclosed or compelled to be disclosed in a manner that discriminates against constitutionally protected activities; providing a short title; setting forth legislative findings and intent; defining terms; prohibiting disclosure of protected financial information except in limited circumstances; establishing requirements for written authorization for disclosure of protected financial information; establishing requirements for subpoenas of protected financial information; prohibiting use of protected financial information for discriminatory conduct; providing civil remedies for violations of new article with liquidated or compensatory damages; providing

injunctive relief for violations of new article; providing defendants in a civil action with a right to cure; allowing the aggrieved party in a civil action to recover attorney's fees; establishing a statute of limitations for civil remedies; providing that civil remedies are exclusive for violations of new article; authorizing the Commissioner of Financial Institutions to administer requirements of new article; authorizing the Attorney General to investigate and judicially enforce new article subject to certain limitations; allowing the Attorney General to recover attorney's fees in action for injunctive relief; authorizing the State Treasurer to disqualify financial institutions from certain state contracts if violations of new article have occurred; establishing the scope of new article; and providing a severability clause."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 625**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Criss and Mallow.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2004) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2016, Relating to confidential childcare records.

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

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

“CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5. VITAL STATISTICS.

§16-5-28. Copies from the system of vital statistics.

In accordance with ~~section twenty seven~~ [§16-5-27] of this ~~article~~ code and the legislative rules promulgated thereunder:

(a) The State Registrar and other custodians of vital records authorized to issue certified copies shall upon receipt of an application, issue a certified copy of a vital record in his or her custody to the registrant, his or her parents, spouse, adult children, grandchildren or great-grandchildren, legal guardian, or their respective authorized representative. Additionally, the State Registrar and other custodians of vital records, upon receipt of an application, shall issue a certified copy of a vital record in his or her custody to a child placing agency completing adoption on behalf of the department. Others may be authorized to obtain certified copies when they demonstrate that the record is needed for the determination or protection of his or her personal or property right. The department may promulgate rules to further define others who may obtain copies of vital records filed under this article.

(b) All forms and procedures used in the issuance of certified copies of vital records in the state shall be approved by the State Registrar. All certified copies of certificates of birth issued shall have security features that deter the document from being altered, counterfeited, duplicated, or simulated without ready detection in compliance with regulations issued by the federal government.

(c) Each copy or abstract issued shall show the date of registration, and copies or abstracts issued from records marked ‘Amended’ shall be similarly marked and, when possible, show the effective date of the amendment. Copies issued from records marked ‘Delayed’ shall be similarly marked and shall include the date of registration and a description of the evidence used to

establish the delayed certificate. Any copy issued of a 'Certificate of Foreign Birth' shall indicate the foreign birth and show the actual place of birth and the statement that the certificate is not proof of United States citizenship for the person for whom it is issued.

(d) A certified copy of a vital record issued in accordance with this section shall be considered for all purposes the same as the original, and shall be prima facie evidence of the facts stated in the record: *Provided*, That the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, or a certificate of foreign birth, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

(e) Nothing in this section shall be construed to permit disclosure of information contained in the 'Information for Medical and Health Use Only' section of the certificate of birth or the 'Information for Statistical Purposes Only' section of the certificate of marriage or certificate of divorce or annulment unless specifically authorized by the State Registrar for statistical or research purposes. This information is not subject to subpoena or court order and is not admissible before any court, tribunal, or judicial body. Information collected for administrative use may not be included on certified copies of records, and may be disclosed only for administrative, statistical, or research purposes authorized by state or federal law and legislative rule.

(f) When the State Registrar receives information that a certificate may have been registered through fraud or misrepresentation, he or she may withhold issuance of any copy of that certificate.

(1) The State Registrar shall inform the registrant or the registrant's authorized representative of the right to request a hearing by the commissioner.

(2) The secretary of the department may authorize the State Registrar or another person to hold an investigation or hearing to determine if fraud or misrepresentation has occurred.

(3) If upon conclusion of a hearing or investigation no fraud or misrepresentation is found, copies may be issued.

(4) If fraud or misrepresentation is found by a preponderance of the evidence, the State Registrar shall remove the certificate from the file. The certificate and evidence will be retained but will not be subject to inspection or copying except upon order of a court of competent jurisdiction or by the State Registrar for purposes of prosecution or administration of the system of vital statistics.

(g) No person may prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record, except as authorized by this article, or by legislative rule.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-608. Permanency hearing; frequency; transitional planning; out-of-state placement; findings; notice; permanent placement review.

(a) *Permanency hearing when reasonable efforts are not required.* — If the court finds, pursuant to this article, that the department is not required to make reasonable efforts to preserve the family, then, notwithstanding any other provision, a permanency hearing must be held within 30 days following the entry of the court order so finding, and a permanent placement review hearing must be conducted at least once every 90 days thereafter until a permanent placement is achieved.

(b) *Permanency hearing every 12 months until permanency is achieved.* — If, 12 months after receipt by the department or its authorized agent of physical care, custody, and control of a child either by a court-ordered placement or by a voluntary agreement, the department has not placed a child in an adoptive home, placed the child with a natural parent, placed the child in legal guardianship, or permanently placed the child with a fit and willing relative, the court shall hold a permanency hearing. The department shall file a progress report with the court detailing the efforts that have been made to place the child in a permanent home and copies

of the child's case plan, which shall include ~~including~~ the permanency plan as defined in §49-1-201 and §49-4-604 of this code. Copies of the report shall be sent to the parties and all persons entitled to notice and the right to be heard. The court shall schedule a hearing; giving notice and the right to be present to the child's attorney; the child; the child's parents; the child's guardians; the child's foster parents; any preadoptive parent, or any relative providing care for the child; any person entitled to notice and the right to be heard; and other persons as the court may, in its discretion, direct. The child's presence may be waived by the child's attorney at the request of the child or if the child is younger than 12 years-of-age and would suffer emotional harm. The purpose of the hearing is to review the child's case, to determine whether and under what conditions the child's commitment to the department shall continue, to determine what efforts are necessary to provide the child with a permanent home, and to determine if the department has made reasonable efforts to finalize the permanency plan. The court shall conduct another permanency hearing within 12 months thereafter for each child who remains in the care, custody, and control of the department until the child is placed in an adoptive home, returned to his or her parents, placed in legal guardianship, or permanently placed with a fit and willing relative.

(c) *Transitional planning for older children.* — In the case of a child who has attained 16 years of age, the court shall determine the services needed to assist the child to make the transition from foster care to independent living. The child's case plan should specify services aimed at transitioning the child into adulthood. When a child turns 17, or as soon as a child aged 17 comes into a case, the department must immediately provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The plan must include specific options on housing, health insurance, education, local opportunities for mentors, continuing support services, work force support, and employment services, and the plan should be as detailed as the child may elect. In addition to these requirements, when a child with special needs turns 17, or as soon as a child aged 17 with special needs comes into a case, he or she is entitled to the appointment of a department adult services worker to the

multidisciplinary treatment team, and coordination between the multidisciplinary treatment team and other transition planning teams, such as special education individualized education planning (IEP) teams.

(d) *Out-of-state placements.* —A court may not order a child to be placed in an out-of-state facility unless the child is diagnosed with a health issue that no in-state facility or program serves; unless a placement out of state is in closer proximity to the child's family for the necessary care; or the services are able to be provided more timely. If the child is to be placed with a relative or other responsible person out of state, the court shall use judicial leadership to help expedite the process under the Interstate Compact for the Placement of Children provided in §49-7-101 and §49-7-102 of this code and the Uniform Child Custody Jurisdiction and Enforcement Act provided in §48-20-101 *et seq.* of this code.

(e) *Findings in order.* — At the conclusion of the hearing the court shall, in accordance with the best interests of the child, enter an order containing all the appropriate findings. The court order shall state:

(1) Whether or not the department made reasonable efforts to preserve the family and to prevent out-of-home placement or that the specific situation made the effort unreasonable;

(2) Whether or not the department made reasonable efforts to finalize the permanency plan and concurrent plan for the child;

(3) The appropriateness of the child's current placement, including its distance from the child's home and whether or not it is the least restrictive one (or most family-like one) available;

(4) The appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(5) Services required to meet the child's needs and achieve permanency; and

(6) In addition, in the case of any child for whom another planned permanent living arrangement is the permanency plan, the court shall: (A) Inquire of the child about the desired permanency outcome for the child; (B) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and (C) provide in the court order compelling reasons why it continues to not be in the best interest of the child to: (i) return home, (ii) be placed for adoption, (iii) be placed with a legal guardian, or (iv) be placed with a fit and willing relative.

(f) The department shall annually report to the court the current status of the placements of children in the care, custody, and control of the state department who have not been adopted.

(g) The department shall file a report with the court in any case where any child in the custody of the state receives more than three placements in one year no later than 30 days after the third placement. This report shall be provided to all parties and persons entitled to notice and the right to be heard. Upon motion by any party, the court shall review these placements and determine what efforts are necessary to provide the child with a permanent home. No report may be provided to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(h) The department shall give actual notice, in writing, to the court, the child, the child's attorney, the parents, and the parents' attorney at least 48 hours prior to the move if this is a planned move, or within 48 hours of the next business day after the move if the child is in imminent danger in the child's current placement, except where the notification would endanger the child or the foster family. A multidisciplinary treatment team shall convene as soon as practicable after notice to explore placement options. This requirement is not waived by placement of the child in a home or other residence maintained by a private provider. No notice may be provided pursuant to this provision to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(i) Nothing in this article precludes any party from petitioning the court for review of the child's case at any time. The court shall grant the petition upon a showing that there is a change in circumstance or needs of the child that warrants court review.

(j) Any foster parent, preadoptive parent or relative providing care for the child shall be given notice of and the right to be heard at the permanency hearing provided in this section.

(k) Once an adoption case is assigned to a child placing agency, all related court hearing notices shall be sent to the child placing agency as an interested party.

ARTICLE 5. RECORD KEEPING AND DATABASE.

§49-5-101. Confidentiality of records; non-release of records; exceptions; penalties.

(a) Except as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained by the Division of Corrections and Rehabilitation, the Department of Health and Human Resources, a child agency or facility, or court or law-enforcement agency, are confidential and may not be released or disclosed to anyone, including any federal or state agency.

(b) Notwithstanding the provisions of subsection (a) of this section or any other provision of this code to the contrary, records concerning a child or juvenile, except adoption records and records disclosing the identity of a person making a complaint of child abuse or neglect, may be made available:

(1) Where otherwise authorized by this chapter;

(2) To:

(A) The child;

(B) A parent whose parental rights have not been terminated;

(C) The attorney of the child or parent; and

(D) The Juvenile Justice Commission and its' designees acting in the course of their official duties;

(3) With the written consent of the child or of someone authorized to act on the child's behalf; and

(4) Pursuant to an order of a court of record: *Provided*, That the court shall review the record or records for relevancy and materiality to the issues in the proceeding and safety and may issue an order to limit the examination and use of the records or any part thereof.

(c) In addition to those persons or entities to whom information may be disclosed under subsection (b) of this section, information related to child abuse or neglect proceedings, except information relating to the identity of the person reporting or making a complaint of child abuse or neglect, shall be made available, upon request, to:

(1) Federal, state, or local government entities, or any agent of those entities, including law-enforcement agencies and prosecuting attorneys, having a need for that information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(2) The child fatality review team;

(3) Child abuse citizen review panels;

(4) Multidisciplinary investigative and treatment teams; or

(5) A grand jury, circuit court, or family court, upon a finding that information in the records is necessary for the determination of an issue before the grand jury, circuit court, or family court; and

(6) The West Virginia Crime Victims Compensation Fund and its designees acting in the course of their official duties.

(d) If there is a child fatality or near fatality due to child abuse and neglect, information relating to a fatality or near fatality shall be made public by the Department of Health and Human Resources

and provided to the entities described in subsection (c) of this section, all under the circumstances described in that subsection: *Provided*, That information released by the Department of Health and Human Resources pursuant to this subsection may not include the identity of a person reporting or making a complaint of child abuse or neglect. For purposes of this subsection, 'near fatality' means any medical condition of the child which is certified by the attending physician to be life threatening.

(e) Except in juvenile proceedings which are transferred to criminal proceedings, law-enforcement records and files concerning a child or juvenile shall be kept separate from the records and files of adults and not included within the court files. Law-enforcement records and files concerning a child or juvenile shall only be open to inspection pursuant to §49-5-103 of this code.

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

(g) Notwithstanding the provisions of this section, or any other provision of this code to the contrary, the name and identity of any juvenile adjudicated or convicted of a violent or felonious crime shall be made available to the public;

(h)(1) Notwithstanding the provisions of this section or any other provision of this code to the contrary, the Division of Corrections and Rehabilitation may provide access to, and the confidential use of, a treatment plan, court records, or other records of a juvenile to an agency in another state which:

(A) Performs the same functions in that state that are performed by the Division of Corrections and Rehabilitation in this state;

(B) Has a reciprocal agreement with this state; and

(C) Has legal custody of the juvenile;

(2) A record which is shared under this subsection may only provide information which is relevant to the supervision, care, custody, and treatment of the juvenile-;

(3) The Division of Corrections and Rehabilitation may enter into reciprocal agreements with other states and propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this subsection; and

(4) Other than the authorization explicitly given in this subsection, this subsection may not be construed to enlarge or restrict access to juvenile records as provided elsewhere in this code.

(i) The records subject to disclosure pursuant to subsection (b) of this section may not include a recorded/videotaped interview, as defined in §62-6B-2(6) of this code, the disclosure of which is exclusively subject to §62-6B-6 of this code.

(j) Notwithstanding the provisions of subsection (a) of this section, records in the possession of the Division of Corrections and Rehabilitation declared to be confidential by the provisions of subsection (a) of this section may be published and disclosed for use in an employee grievance if the disclosure is done in compliance with subsections (k), (l), and (m) of this section.

(k) Records or information declared confidential by the provisions of this section may not be released for use in a grievance proceeding except:

(1) Upon written motion of a party; and

(2) Upon an order of the Public Employee's Grievance Board entered after an in-camera hearing as to the relevance of the record or information.

(l) If production of confidential records or information is disclosed to a grievant, his or her counsel or representative, pursuant to subsection (k) of this section:

(1) The division shall ensure that written records or information is redacted of all identifying information of any juvenile which is not relevant to the resolution of the grievance;

(2) Relevant video and audio records may be disclosed without redaction; and

(3) Records or other information released to a grievant or his or her counsel or representative pursuant to subsection (k) of this section may only be used for purposes of his or her grievance proceeding and may not be disclosed, published, copied, or distributed for any other purpose, and upon the conclusion of the grievance procedure, returned to the Division of Corrections and Rehabilitation.

(m) If a grievant or the Division of Corrections and Rehabilitation seek judicial review of a decision of the Public Employee's Grievance Board, the relevant confidential records disclosed and used in the grievance proceeding may be used in the appeal proceeding upon entry of an order by the circuit court, and the order shall contain a provision limiting disclosure or publication of the records or information to purposes necessary to the proceeding and prohibiting unauthorized use and reproduction.

(n) Nothing in this section may be construed to abrogate the provisions of §29B-1-1 *et seq.* of this code.

(o) A child placing agency or a residential child care and treatment facility may disclose otherwise confidential information to other child placing agencies or residential child care and treatment facilities when making referrals or providing services on behalf of the child. This information shall be maintained in the same manner as provided in this code.

(p) The department shall provide electronic access to information required to perform an adoption to child placing agencies as necessary to complete the adoption.

(q) A child placing agency completing adoption as a contractor on behalf of the department shall have access to secure records from vital statistics and other pertinent record holders."

And,

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

Com. Sub. for H. B. 2016 – “A Bill to amend and reenact §16-5-28 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-4-608 of said code; and to amend and reenact §49-5-101 of said code, all relating to releasing information to facilitate care of a child; providing for qualified disclosure of confidential information between certain entities; requiring court notices be sent to child placement agencies in adoption cases; requiring State Registrar to issue copy of vital record to child placement agency; requiring the disclosed records to be maintained in compliance with code; and requiring the department to provide electronic access to certain information.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 626**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, E. Pritt, Pushkin and Walker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2016) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2540, Travel Insurance Model Act.

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

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

“ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-32b. Travel Insurance Entity Producer Limited License Act.

[Repealed.]

ARTICLE 62. TRAVEL INSURANCE MODEL ACT.

§33-62-1. Short title.

This article shall be known as the "Travel Insurance Model Act."

§33-62-2. Purposes and scope.

(a) The purpose of this article is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state through the establishment of clear regulatory obligations for those involved in the development and distribution of travel insurance, preserving the unique aspects of travel protection plans, and protecting and benefiting consumers by encouraging fair and effective competition within the market.

(b) The requirements of this article shall apply to travel insurance, whether or not provided as part of a travel protection plan, where policies and certificates are delivered or issued for delivery in this state. This article shall not be applicable to cancellation fee waivers and travel assistance services, except as expressly provided herein.

(c) All other applicable provisions of chapter 33 of this code shall continue to apply to travel insurance, except that the specific

provisions of this article shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

§33-62-3. Definitions.

As used in this article:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping;

(2) "Blanket travel insurance" means travel insurance issued to any eligible group providing coverage for specified circumstances and specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group;

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel arrangements or travel services and its customer to waive some or all of the non-refundable cancellation fee or penalty provisions of the underlying travel contract between the supplier and customer with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance;

(4) "Commissioner" means the commissioner of insurance of this state;

(5) "Eligible group" means any of the following:

(A) Any entity engaged in the business of providing travel or travel services, including, but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers, or the operator, owner, or lessor of a means of transportation of passengers, including, but not limited to, airlines, cruise lines, railroads, steamship companies, and public bus carriers;

(B) Any college, school, or other institution of learning covering students, teachers, or employees defined by reference to specified hazards incident to activities or operations of the institution of learning;

(C) Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests, defined by reference to specified hazards incident to activities or operations of the employer;

(D) Any sports team, camp, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers;

(E) Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by or on the premises of such organization or branch;

(F) Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institution or financial institution vendor, under which accountholders, credit card holders, debtors, guarantors, or purchasers are insured;

(G) Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association;

(H) Any trust or the trustees of a fund established, created, or maintained for the benefit of members or customers of one or more associations meeting the above requirements;

(I) Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

(J) Any newspaper or other publisher covering its journalists and carriers;

(K) Any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group, or agency having jurisdiction thereof, covering all or any group of the members, participants, or volunteers of such group;

(L) Preschools, daycare institutions for children or adults, and senior citizen clubs;

(M) Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies; or

(N) Any other group where the commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the best interests of the public;

(5) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details;

(6) "Group travel insurance" means travel insurance issued to any eligible group;

(7) "Limited lines travel insurance producer" means a:

(A) Licensed managing general agent or third party administrator;

(B) Licensed insurance producer, including a limited lines producer; or

(C) Travel administrator;

(8) "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state;

(9) "Primary certificate holder" means an individual person who elects and purchases travel insurance under a group policy;

(10) "Primary policyholder" means an individual person who elects and purchases individual travel insurance;

(11) "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person's only actions that would otherwise cause it to be considered a travel administrator are among the following:

(A) A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;

(B) An insurance producer selling insurance or engaged in administrative and claims related activities within the scope of the producer's license;

(C) A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this article;

(D) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage; or

(E) A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer;

(12) "Travel assistance services" means non-insurance services that may be distributed by limited lines travel insurance producers or other entities, and for which there is no indemnification for the travel protection plan customer based on a fortuitous event, nor any transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to, security advisories; destination information; vaccination and immunization information services; travel reservation services; entertainment; activity and event planning; translation assistance; emergency messaging; international legal and medical referrals; medical case monitoring; coordination of transportation arrangements; emergency cash transfer assistance; medical prescription replacement assistance; passport and travel document replacement assistance; lost luggage assistance; concierge services; and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance;

(13) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including, but not limited to:

(A) Interruption or cancellation of trip or event;

(B) Loss of baggage or personal effects;

(C) Damages to accommodations or rental vehicles;

(D) Sickness, accident, disability, or death occurring during travel;

(E) Emergency evacuation;

(F) Repatriation of remains; or

(G) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, including, for example, those working

overseas as an expatriate or military personnel being deployed, or any other product that requires a specific insurance producer license;

(14) "Travel protection plans" means plans that provide one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers; and

(15) "Travel retailer" means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

§33-62-4. Licensing and registration.

(a) The commissioner may issue to an individual or business entity that has filed with the commissioner an application for such limited license in a form and manner prescribed by the commissioner, a limited lines travel insurance producer license that authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer. No person may act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered, respectively. The annual fee for a limited lines travel insurance producer license is \$200.

(b) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:

(A) A description of the material terms or the actual material terms of the insurance coverage;

(B) A description of the process for filing a claim;

(C) A description of the review or cancellation process for the travel insurance policy; and

(D) The identity and contact information of the insurer and limited lines travel insurance producer;

(2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number. The limited lines travel insurance producer shall submit such register to the commissioner upon reasonable request. The limited lines travel insurance producer shall also certify that the travel retailer registered complies with 18 U.S.C. § 1033. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers under §33-12-24 of this code shall be applicable to the limited lines travel insurance producers and travel retailers;

(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person (a "designated responsible producer" or "DRP") responsible for the limited lines travel insurance producer's compliance with the travel insurance laws, rules, and regulations of the state;

(4) The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer;

(5) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees as set forth in applicable state law; and

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to

receive a program of instruction or training, which may be subject to review by the commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(c) Limited lines travel insurance producers, and those registered under their licenses, are exempt from the examination requirements under §33-12-9 of this code and the pre-licensing and continuing education requirements of §33-12-8 of this code.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

(1) Provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(2) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(3) Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(e) A travel retailer's employee or authorized representative, who is not licensed as an insurance producer may not:

(1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) Hold himself or itself out as a licensed insurer, licensed producer, or insurance expert.

(f) Notwithstanding any other provision in this chapter, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this article, is authorized to do so and receive related compensation, upon registration by the limited lines travel insurance producer as described in subdivision (2), subsection (b) of this section.

(g) *Responsibility.* — As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this article.

(h) A licensee under this section is subject to the provisions of § 33-12-6b of this code as if it were an insurance agency.

(i) *License renewal.* — The commissioner shall annually renew, on the expiration date as provided in this subsection, the license of a licensee who qualifies and applies for renewal on a form prescribed by the commissioner and pays the fee set forth in subsection (a) of this section: *Provided*, That the commissioner may fix the dates of expiration of limited lines travel insurance producer licenses as he or she considers advisable for efficient distribution of the workload of his or her office:

(1) If the fixed expiration date would upon first occurrence shorten the period for which a license fee has been paid, no refund of unearned fee shall be made;

(2) If the fixed expiration date would upon first occurrence lengthen the period for which a license fee has been paid, the commissioner may charge no additional fee for the lengthened period;

(3) If a date is not fixed by the commissioner, each license shall, unless continued as provided in this subsection, expire at midnight on June 30 following issuance; and

(4) A licensee that fails to timely renew its license may reinstate its license, retroactive to the expiration date, upon submission of the renewal application within 12 months after the expiration date and payment of a penalty in the amount of \$50.

(j) *Appointment.* — Limited lines travel insurance producer may not act as an agent of an insurer unless the insurer appoints the limited lines travel insurance producer as its agent, as follows:

(1) The insurer shall file, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed and shall pay a nonrefundable appointment processing fee in the amount of \$25; *Provided*, That an insurer may elect to appoint a limited lines travel insurance producer to all or some insurers within the insurer's holding company system or group by filing a single notice of appointment;

(2) Upon receipt of a notice of appointment, the commissioner shall verify within a reasonable time, not to exceed 30 days, that the limited lines travel insurance producer is eligible for appointment; *Provided*, That the commissioner shall notify the insurer within five days of a determination that the limited lines travel insurance producer is ineligible for appointment;

(3) The insurer shall remit, no later than midnight on May 31 annually and in a manner prescribed by the commissioner, a renewal appointment fee for each appointed limited lines travel insurance producer in the amount of \$25; and

(4) The insurer shall maintain a current list of limited lines travel insurance producers appointed to accept applications on behalf of the insurer, and shall make the list available to the commissioner upon reasonable request for purposes of conducting investigations and enforcing the provisions of this chapter.

§33-62-5. Premium tax.

(a) A travel insurer shall pay premium tax, as provided in §33-31-14 and §33-34-14a of this code, on travel insurance premiums paid by any of the following:

(1) An individual primary policyholder who is a resident of this state;

(2) A primary certificate holder who is a resident of this state who elects coverage under a group travel insurance policy; or

(3) An eligible group policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary in, this state that purchases a blanket travel insurance policy for eligible blanket group members, subject to any apportionment rules that apply across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) An insurer shall obtain and maintain documentation necessary to determine the state to which premium tax should be reported based on information provided by the policyholder or certificate holder, as applicable, and shall report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

§33-62-6. Forms and rates.

(a) Notwithstanding any other provision of this chapter, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance: *Provided*, That travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

(b) All travel Insurance policies, certificates of insurance, endorsements, riders, and rates delivered, issued for delivery, or charged in this state shall be filed with the commissioner before being used. No policy, certificate of insurance, or endorsement shall be issued until the expiration of 30 days after it has been filed, unless the commissioner shall have given prior written approval.

(c) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans

designed for individual or identified marketing or distribution channels, and the travel insurance offered as part of the travel protection plan may be offered as individual travel insurance, group travel insurance, or blanket travel insurance.

§33-62-7. Travel protection plans.

Travel protection plans may be offered for one price in this state if:

(1) The travel insurance, travel assistance services, and cancellation fee waivers are clearly delineated in the travel protection plan's fulfillment materials. The fulfillment materials shall include the travel insurance disclosures required under this code and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable; and

(2) The travel protection plan clearly discloses to the consumer at or prior to the time of purchase and fulfillment that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides an opportunity for the consumer to obtain additional information regarding the features and pricing of each.

§33-62-8. Sales practices.

(a) All persons offering travel insurance to residents of this state are subject to the Unfair Trade Practices provisions of §33-11-1 et seq. of this code, except as otherwise provided in this section. In the event of a conflict between this article and other provisions of this chapter regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this article shall control.

(b) *Illusory Travel Insurance.* — Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under §33-11-1 et seq. of this code.

(c) *Marketing.*

(1) All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, shall be consistent with all travel insurance policy documents, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(2) Travel insurance policies or certificates that contain preexisting condition exclusions must provide information and an opportunity to learn more about the preexisting condition exclusions any time prior to purchase, and in the coverage's fulfillment materials.

(3) The fulfillment materials and the information described in §33-62-4(b)(1) of this code shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(A) Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

(B) Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail. For the purposes of this section, "delivery" means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(4) The company shall disclose in the policy fulfillment and documentation whether the travel insurance is primary or secondary to other applicable coverage.

(5) Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is

provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(d) Opt out. — Unless otherwise permitted by this code or federal law, no person offering travel insurance or travel protection plans on an individual or group basis may do so using negative option or opt-out, which would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form when the consumer purchases a trip.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

§33-62-9. Travel administrators.

(a) Notwithstanding any other provisions of this chapter, no person shall act or represent itself as a travel administrator in this state unless that person:

(1) Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license;

(2) Holds a valid managing general agent (MGA) license in this state pursuant to §33-37-1 et seq. of this code; or

(3) Holds a valid third-party administrator (TPA) license in this state pursuant to §33-46-1 et seq. of this code.

(b) A travel administrator and its employees are exempt from the licensing requirements of §33-12B-1 et seq. of this code.

(c) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the commissioner upon request.

§33-62-10. Policy.

Travel insurance may be provided under an individual policy or under a group or blanket policy.

§33-62-11. Enforcement.

(a) The commissioner may conduct investigations or examinations of travel insurers, limited lines travel insurance producers, travel retailers, and travel administrators to enforce the provisions of this article to protect resident travel insurance consumers.

(b) The commissioner may take action, following notice and a hearing pursuant to §33-2-13 of this code, as necessary or appropriate to enforce the provisions of this article, any order of the commissioner, and any other provision of state law to protect consumers of travel insurance in this state.

§33-62-12. Rulemaking.

The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article.

And,

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

Com. Sub. for H. B. 2540 – “A Bill to repeal §33-12-32b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §33-62-1, §33-62-2, §33-62-3, §33-62-4, §33-62-5, §33-62-6, §33-62-7, §33-62-8, §33-62-9, §33-62-10, §33-62-11, and §33-62-12, all relating to

adopting the Travel Insurance Model Act; providing a short title; setting forth scope and purposes; providing definitions; providing licensing and registration requirements; setting forth annual license fee; requiring payment of premium taxes; specifying forms and rates; establishing acceptable and prohibited sales practices; making persons offering travel insurance subject to the Unfair Trade Practices Act; establishing requirements for travel administrators; allowing individual, group, or blanket travel insurance policies; granting the Insurance Commissioner enforcement powers; and providing rulemaking authority to the Insurance Commissioner.”

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

On page 11, section 5, line 1, by striking “33-31-14” and inserting in lieu thereof “33-3-14”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 627**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, E. Pritt and Walker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2540) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2621, Relating generally to bail bondsman.

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

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

“CHAPTER 33. INSURANCE.

ARTICLE 1. DEFINITIONS.

§33-1-10. Kinds of insurance defined.

The following definitions of kinds of insurance are not mutually exclusive and, if reasonably adaptable thereto, a particular coverage may be included under one or more of such definitions:

(a) *Life insurance*. — Life insurance is insurance on human lives including endowment benefits, additional benefits in the event of death or dismemberment by accident or accidental means, additional benefits for disability and annuities.

(b) *Accident and sickness*. — Accident and sickness insurance is insurance against bodily injury, disability or death by accident or accidental means, or the expense thereof, or against disability or expense resulting from sickness and insurance relating thereto. Group credit accident and health insurance may also include loss of income insurance, which is insurance against the failure of a debtor to pay his or her monthly obligation due to involuntary loss of employment. For the purposes of this definition, involuntary loss of employment means the debtor loses employment income (salary or wages) as a result of unemployment caused by individual or mass layoff, general strikes, labor disputes, lockout, or termination by employer for other than willful or criminal misconduct. Any or all of the above-mentioned perils may be included in an insurance policy, at the discretion of the policyholder.

(c) *Fire.* — Fire insurance is insurance on real or personal property of every kind and interest therein, against loss or damage from any or all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual liability for any such loss or damage. Fire insurance shall also include miscellaneous insurance as defined in paragraph (12), subdivision (e) of this section.

(d) *Marine insurance is insurance:*

(1) Against any and all kinds of loss or damage to vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, chooses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit or transportation, including war risks, on or under any seas or other waters, on land (above or below ground), or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same, or during any delays, storage, transshipment, or reshipment incident thereto, including marine builders' risks and all personal property floater risks;

(2) Against any and all kinds of loss or damage to persons or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles);

(3) Against any and all kinds of loss or damage to precious stones, jewels, jewelry, gold, silver, and other precious metals, whether used in business or trade or otherwise, and whether the same be in course of transportation or otherwise;

(4) Against any and all kinds of loss or damage to bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, windstorm, sprinkler leakage, hail, explosion, earthquake, riot, or civil commotion, or any or all of them are the only hazards to be covered;

(5) Against any and all kinds of loss or damage to piers, wharves, docks, and ships, excluding the risks of fire, windstorm, sprinkler leakage, hail, explosion, earthquake, riot, and civil commotion and each of them;

(6) Against any and all kinds of loss or damage to other aids to navigation and transportation, including dry docks and marine railways, dams, and appurtenant facilities for control of waterways; and

(7) Marine protection and indemnity insurance, which is insurance against, or against legal liability of the insured for loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death, or for loss of or damage to the property of another person.

(e) *Casualty*. — Casualty insurance includes:

(1) Vehicle insurance, which is insurance against loss of or damage to any land vehicle or aircraft, or any draft or riding animal, or to property while contained therein or thereon or being loaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incident to ownership, maintenance, or use of any such vehicle, aircraft or animal; together with insurance against accidental death or accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting, repairing, or cranking, or caused by being struck by any vehicle, aircraft, or draft or riding

animal, if such insurance is issued as a part of insurance on the vehicle, aircraft, or draft or riding animal;

(2) Liability insurance, which is insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provisions for medical, hospital, surgical, disability benefits to injured persons, and funeral and death benefits to dependents, beneficiaries, or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance;

(3) Burglary and theft insurance, which is insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from any attempt at any of the foregoing, including supplemental coverages for medical, hospital, surgical, and funeral benefits sustained by the named insured or other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents resulting from any cause;

(4) Personal property floater insurance, which is insurance upon personal effects against loss or damage from any cause;

(5) Glass insurance, which is insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;

(6) Boiler and machinery insurance, which is insurance against any liability and loss or damage to property or interest resulting from accidents to or explosion of boilers, pipes, pressure containers, machinery, or apparatus and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured;

(7) Leakage and fire extinguishing equipment insurance, which is insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and

other fire extinguishing equipment or apparatus, water mains, pipes, and containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus;

(8) Credit insurance, which is insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured. Credit insurance shall include loss of income insurance, which is insurance against the failure of a debtor to pay his or her monthly obligation due to involuntary loss of employment. For the purpose of this definition, involuntary loss of employment means the debtor loses employment income (salary or wages) as a result of unemployment caused by individual or mass layoff, general strikes, labor disputes, lockout, or termination by employer for other than willful or criminal misconduct; any or all of the above-mentioned perils may be included in an insurance policy, at the discretion of the policyholder;

(9) Malpractice insurance, which is insurance against legal liability of the insured and against loss, damage or expense incidental to a claim of such liability, and including medical, hospital, surgical and funeral benefits to injured persons, irrespective of legal liability of the insured arising out of the death, injury or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service;

(10) Entertainment insurance, which is insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury or sickness of performers, participants, directors, or other principals;

(11) Mine subsidence insurance as provided for in article thirty of this chapter;

(12) Miscellaneous insurance, which is insurance against any other kind of loss, damage, or liability properly a subject of

insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the commissioner as being contrary to law or public policy; and

(13) Federal flood insurance, which is insurance provided by the Federal Insurance Administration or by private insurers through the Write Your Own Program within the National Flood Insurance Program, instituted by the Federal Insurance Administration pursuant to the provision of 42 U.S.C. § 4071, on real or personal property of every kind and interest therein, against loss or damage from flood or mudslide and against loss consequential to such loss or damage, other than noncontractual liability for any loss or damage.

(14) Workers' compensation insurance, which is insurance providing all compensation and benefits required by chapter 23 of this code.

(f) *Surety*. — Surety insurance includes:

(1) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust;

(2) Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of ~~surety-ship~~ suretyship: *Provided*, That surety insurance does not include the guaranteeing and executing of bonds ~~by professional bondsmen in criminal cases or~~ by individuals not in the business of becoming a surety for compensation upon bonds;

(3) Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including any loss while they are being transported in armored motor vehicles or by messenger, but not including any other risks of transportation or navigation, and

also insurance against loss or damage to such an insured's premises or to his or her furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt to commit such crimes; and

(4) Title insurance, which is insurance of owners of property or others having an interest therein, or liens or encumbrances thereon, against loss by encumbrance, defective title, invalidity, or adverse claim to title.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 10. PROFESSIONAL BONDSMEN IN CRIMINAL CASES.

§51-10-1. Definitions.

When used in this article:

‘Approved securities’ means cash, irrevocable letter of credit, bond issued by an insurance company licensed and in good standing in this state, or qualified power of attorney issued by an insurer pursuant to a producer underwriting agreement, or real estate located in this state that is unencumbered in, at least, the amount of minimum financial responsibility required as set forth by the insurance commissioner: *Provided*, That a pledge of real estate by a bondsman as an approved security is not permitted after July 1, 2024: *Provided, however*, That a bondsman who is licensed by the commissioner as of July 1, 2024, and has pledged real estate as security to conduct bonding business may continue to pledge real estate to operate as a bondsman until his or her license is voluntarily surrendered or revoked by the commissioner;

(1) ‘Bonding business’ means the business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia;

(2) ‘Bondsman’ means ~~(A) any person engaged in the bonding business that has satisfied the requirements for, and is duly licensed as, an insurance producer with a property and casualty line of authority as set forth by the Insurance Commissioner and §33-12-~~

~~1, *et seq.* of this code; or (B) any person~~ who is approved and licensed under the provisions of this article who pledges cash or approved securities with the commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value for the pledge;

(3) 'Commissioner' means the Insurance Commissioner of West Virginia, as defined in §33-1-5 of this code; and

(4) 'Insurer' means any domestic, foreign, or alien person, including a surety company, which has been qualified generally to transact surety business in the State of West Virginia.

§51-10-8. Qualifications of bondsmen; rules to be prescribed by Insurance Commissioner; bondsman filing requirements; bondsman license renewal requirements; criminal penalty for filing false affidavit; list of bondsmen kept and provided to places of detention by Insurance Commissioner; requiring all bondsman to be licensed by Insurance Commissioner after July 1, 2022.

(a) The commissioner shall ~~promulgate and propose legislative rules for promulgation under~~ propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to carry out the intent, administration, and enforcement of this article. The commissioner may promulgate ~~any~~ emergency rules ~~under pursuant to the provisions of §29A-3-15 of this code~~ as necessary to carry out the intent, administration, and enforcement of this article. The commissioner shall develop all forms, contracts, or other documents to be used for the purposes outlined in this article.

(b) The rules required by subsection (a) of this section shall specify the qualifications that a person must have when applying to be a bondsman, and the terms and conditions upon which the bonding business may be conducted. The commissioner shall formulate testing requirements for all initial license applicants. The commissioner shall require a biennial fee of \$200 for all bondsman licensed under this article.

(c) The commissioner, in promulgating and proposing rules required by subsection (a) of this section, and in granting a license to a person to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person applying, and a person who has been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character, shall not be licensed.

(d) The applicant shall provide the commissioner a qualifying power-of-attorney from a licensed insurer or surety company or pledge cash or approved securities with the commissioner as security for bail bonds.

(e) The applicant shall comply with the provisions of §33-12-37 of this code regarding criminal history record checks.

(f) The commissioner shall require every bondsman licensed to engage in the bonding business as a principal to file with the commissioner a list showing the name, age, and residence of each person employed by the bondsman as an agent, clerk, or representative in the bonding business, and require an affidavit from each of the persons stating that the person will abide by the terms and provisions of this article.

(g) (4) The commissioner shall require a person licensed as a bondsman to renew his or her license every two years and to file an affidavit stating that since his or her previous license to engage in the bonding business, he or she has abided by the provisions of this article.

(2) A person who files a false affidavit is guilty of false swearing and, upon conviction thereof, shall be punished as provided by law for the offense.

~~(3) A person seeking to renew his or her license to engage in the bonding business shall submit to the property and casualty requirements under section (d) of this section for each renewal, unless he or she has voluntarily terminated his or her license to engage in the bonding business.~~

(h) The commissioner shall keep a list of all bondsmen and, upon the request of a place of detention listed under §51-10-6 of this code, furnish an alphabetical list of all licensed bondsmen to the jail.

~~(j)~~(i) After July 1, 2022, a person ~~shall~~ may not, either as principal, or as agent, clerk, or representative of an agent, engage in the bonding business unless licensed by the commissioner under this section.”

And,

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

Com. Sub. for H. B. 2621 – “A Bill to amend and reenact §33-1-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-10-1 and §51-10-8 of said code, all relating to professional bondsmen in criminal cases; defining terms and setting forth approved securities; modifying requirements for bondsmen; and requiring the Insurance Commissioner to formulate testing requirements for initial license applicants.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 628**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Kirby, Mallow, E. Pritt, Rowe and Walker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2621) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2814, To create a Hydrogen power task force.

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

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

“ARTICLE 2I. HYDROGEN POWER TASK FORCE

§24-2I-1. Title.

This article shall be known as "Hydrogen Power Task Force Act".

§24-2I-2. Establishment of the task force.

(a) There is hereby established a task force to study hydrogen-fueled energy in West Virginia's economy and energy infrastructure. Such study shall include, without limitation:

(1) A review of regulations and legislation needed to guide the development and achievement of economies of scale for a hydrogen energy ecosystem in the state;

(2) An examination of how to position the state to take advantage of competitive incentives and programs created by the federal Infrastructure Investment and Jobs Act and the federal Inflation Reduction Act;

(3) Recommendations for post-secondary education or workforce initiatives to prepare the state's workforce for hydrogen fueled energy-related jobs;

(4) An examination of the sources of potential hydrogen, including, but not limited to, coal, oil, natural gas, hydro, wind, solar, biogas, and nuclear;

(5) Recommendations for funding and tax preferences for building hydrogen-fueled energy facilities at sites throughout West Virginia;

(6) Recommendations regarding funding sources for developing hydrogen fueled energy programs and infrastructure; and

(7) Recommendations for potential end uses of hydrogen-fueled energy.

(b) The task force shall consist of the following members:

(1) A representative from a regulated electric utility company, who shall be appointed by the Governor;

(2) A representative from the fossil fuel energy industry, who shall be appointed by the Governor;

(3) A representative from the manufacturing industry with experience in hydrogen-fueled energy technology, who shall be appointed by the Governor;

(4) A representative from environmental organizations that advocate for renewable energy, who shall be appointed by the Governor;

(5) The chairperson of the Public Service Commission or his or her designee;

(6) The Secretary of the Department of Environmental Protection or his or her designee;

(7) The Secretary of the Department of Economic Development or his or her designee;

(8) The Secretary of the Department of Commerce or his or her designee;

and

(9) A representative from higher education.

(c) 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.

(d) The chairperson shall be elected by members of the task force at the first meeting, which meeting is to be called by the Governor. The first meeting shall be held not later than 120 days after the effective date of this section.

(e) Not later than July 1, 2024, the task force shall submit an electronic report on its findings and recommendations to the Joint Committee on Government and Finance.

(f) The task force shall terminate on the date that it submits such report or July 1, 2024, whichever is later.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 629**), and there were—yeas 89, nays 10, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Bridges, Coop-Gonzalez, Dean, Dillon, Foster, A. Hall, Reynolds, Ridenour, Storch and Vance.

Absent and Not Voting: Mallow.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2814) passed.

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

A message from the Senate, by

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

H. B. 2875, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR.

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

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

“ARTICLE 4. COURT ACTIONS.

§49-4-114. Consent by agency or department to adoption of child; statement of relinquishment by parent; counseling services; petition to terminate parental rights; notice; hearing; court orders.

(a)(1) Whenever a child welfare agency licensed to place children for adoption or the Department of Health and Human Resources has been given the permanent legal and physical custody of any child and the rights of the mother and the rights of the legal, determined, putative, outside or unknown father of the child have been terminated by order of a court of competent jurisdiction or by a legally executed relinquishment of parental rights, the child welfare agency or the department may consent to the adoption of the child, pursuant to article twenty-two, chapter forty-eight of this code.

(2) Relinquishment for an adoption to an agency or to the department is required of the same persons whose consent or relinquishment is required, under section three hundred one, article twenty-two, chapter forty-eight of this code. The form of any relinquishment so required shall conform as nearly as practicable to the requirements established in section three hundred three, article twenty-two, chapter forty-eight, and all other provisions of that article providing for relinquishment for adoption shall govern the proceedings herein.

(3) For purposes of any placement of a child for adoption by the department, the department shall first consider the suitability and willingness of any known grandparent or grandparents to adopt

the child. Once grandparents who are interested in adopting the child have been identified, the department shall conduct a home study evaluation, including home visits and individual interviews by a licensed social worker. If the department determines, based on the home study evaluation, that the grandparents would be suitable adoptive parents, it shall assure that the grandparents are offered the placement of the child prior to the consideration of any other prospective adoptive parents. A circuit judge may determine the placement of a child for adoption by a grandparent or grandparents is in the best interest of the child without the grandparent or grandparents completing or passing a home study evaluation.

(4) The department shall make available, upon request, for purposes of any private or agency adoption proceeding, preplacement and post-placement counseling services by persons experienced in adoption counseling, at no cost, to any person whose consent or relinquishment is required pursuant to article twenty-two, chapter forty-eight of this code.

(b)(1) Whenever the mother has executed a relinquishment, pursuant to this section, and the legal, determined, putative, outsider father, or unknown father, as those terms are defined pursuant to part one, article twenty-two, chapter forty-eight of this code, has not executed a relinquishment, the child welfare agency or the department may, by verified petition, seek to have the father's rights terminated based upon the grounds of abandonment or neglect of the child. Abandonment may be established in accordance with section three hundred six, article twenty-two, chapter forty-eight of this code.

(2) Unless waived by a writing acknowledged as in the case of deeds or by other proper means, notice of the petition shall be served on any person entitled to parental rights of a child prior to its adoption who has not signed a relinquishment of custody of the child.

(3) In addition, notice shall be given to any putative, outsider father, or unknown father who has asserted or exercised parental rights and duties to and with the child and who has not relinquished any parental rights, and the rights have not otherwise been

terminated, or who has not had reasonable opportunity before or after the birth of the child to assert or exercise those rights, except that if the child is more than six months old at the time the notice would be required and the father has not asserted or exercised his or her parental rights and he or she knew the whereabouts of the child, then the father shall be presumed to have had reasonable opportunity to assert or exercise any rights.

(c)(1) Upon the filing of the verified petition seeking to have the parental rights terminated, the court shall set a hearing on the petition. A copy of the petition and notice of the date, time, and place of the hearing on the petition shall be personally served on any respondent at least twenty days prior to the date set for the hearing.

(2) The notice shall inform the person that his or her parental rights, if any, may be terminated in the proceeding and that the person may appear and defend any rights within twenty days of the service. In the case of a person who is a nonresident or whose whereabouts are unknown, service shall be achieved: ~~(1)~~ (A) By personal service; ~~(2)~~ (B) by registered or certified mail, return receipt requested, postage prepaid, to the person's last known address, with instructions to forward; or ~~(3)~~ (C) by publication. If personal service is not acquired, then if the person giving notice has any knowledge of the whereabouts of the person to be served, including a last known address, service by mail shall be first attempted as herein provided. Service achieved by mail shall be complete upon mailing and is sufficient service without the need for notice by publication. In the event that no return receipt is received giving adequate evidence of receipt of the notice by the addressee or of receipt of the notice at the address to which the notice was mailed or forwarded, or if the whereabouts of the person are unknown, then the person required to give notice shall file with the court an affidavit setting forth the circumstances of any attempt to serve the notice by mail, and the diligent efforts to ascertain the whereabouts of the person to be served. If the court determines that the whereabouts of the person to be served cannot be ascertained and that due diligence has been exercised to ascertain the person's whereabouts, then the court shall order service of the notice by

publication as a Class II publication in compliance with article three, chapter fifty-nine of this code, and the publication area shall be the county where the proceedings are had, and in the county where the person to be served was last known to reside. In the case of a person under disability, service shall be made on the person and his or her personal representative, or if there be none, a guardian ad litem.

(3) In the case of service by publication or mail or service on a personal representative or a guardian ad litem, the person is allowed thirty days from the date of the first publication or mailing of the service on a personal representative or guardian ad litem in which to appear and defend the parental rights.

(d) A petition under this section may be instituted in the county where the child resides or where the child is living.

(e) If the court finds that the person certified to parental rights is guilty of the allegations set forth in the petition, the court shall enter an order terminating his or her parental rights and shall award the legal and physical custody and control of the child to the petitioner.”

And,

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

H. B. 2875 – “A Bill to amend and reenact §49-4-114 of the Code of West Virginia, 1931, as amended, relating to giving circuit court judges the authority to waive the requirement that a party pass a home study performed by DHHR or a third-party evaluator before a child can be placed in the home in cases of grandparent adoption.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 630**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Mallow.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2875) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3189, The PFAS Protection Act.

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

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

“ARTICLE 11C. PFAS PROTECTION ACT.

§22-11C-1. Legislative Findings.

(a) *Legislative findings.* — (1) The Legislature recognizes the prevalence of perfluoroalkyl and polyfluoroalkyl substances, which the United States Environmental Protection Agency (USEPA) has classified as contaminants. These chemicals are used in thousands of applications throughout the industrial, food, automotive, aerospace, electronic, oil and gas, green energy, and textile industries. They are used in some fire-fighting foams, food packaging, cleaning products, semiconductors, computers, cellular phones, electric vehicle batteries, automobiles, pharmaceuticals, agricultural pesticides, oil and gas development, defense equipment, hydrogen production, and various other household items. Many are very stable, some accumulate in the environment, and many are highly water soluble, easily transferring through soil to groundwater.

(2) During the 2020 regular session, the West Virginia Legislature passed Senate Concurrent Resolution 46 (SCR 46), which requested that the Department of Environmental Protection (DEP) and the Department of Health and Human Resources cooperatively propose and initiate a public source-water supply study plan to sample PFAS substances for all community water systems in West Virginia, including schools and daycares that operate treatment systems regulated by the West Virginia Department of Health and Human Resources.

(3) In compliance with SCR 46, the DEP and the Department of Health and Human Resources contracted with the United States Geological Survey to conduct the PFAS study. The USGS study was completed in 2022, with results for 279 sampled sites.

(4) According to the USGS study, PFOA and/or PFOS was detected above the then-current USEPA drinking water health advisory in 13% (37) of the sampled raw water sources between 2019 and 2021.

(5) In June 2022, the USEPA issued updated interim or final drinking water health advisories for four PFAS: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorobutane sulfonic acid and its potassium salt (PFBS), and hexafluoropropylene oxide dimer acid and its ammonium salt (HFPO-DA).

(6) According to the data collected for the USGS study, PFOA and/or PFOS was detected above the June 2022 drinking water health advisories in 49% (137) of the sampled raw water sources (involving 130 public water systems) between 2019 and 2021.

(7) In August 2022, the USEPA proposed to designate PFOA and PFOS as hazardous substances because, when released into the environment, these chemicals present substantial danger to public health.

(8) On December 5, 2022, the USEPA issued guidance to state permitting authorities entitled "Addressing PFAS Discharges in

NPDES Permits and Through the Pretreatment Program and Monitoring Programs."

(9) The USEPA has committed to establishing drinking water standards under the Safe Drinking Water Act for PFOA and PFOS in 2023.

(10) The USEPA has committed to publishing recommended human health water quality criteria under the Clean Water Act for PFOA and PFOS in 2024.

(11) While some manufacturers have already voluntarily done so, it is imperative to identify the remaining sources of PFAS detected in the raw water sources for public water systems so that these sources of pollution can be properly addressed, minimizing the impacts to public drinking water systems. Identifying and addressing PFAS sources will also benefit people who rely on impacted private drinking water wells.

(12) It is in the public interest for West Virginia to reduce toxic chemicals in drinking water supplies to protect the health of West Virginians and strengthen the state's economy.

§22-11C-2. Definitions.

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

(1) 'Perfluoroalkyl and polyfluoroalkyl substances' or 'PFAS' means non-polymeric perfluoroalkyl and polyfluoroalkyl substances that contain at least two fully fluorinated carbon atoms, excluding gases and volatile liquids. PFAS includes, among other substances, PFOA and PFOS.

(2) 'Secretary' means the Secretary of the Department of Environmental Protection.

(3) 'USGS study' means United States Geological Survey Scientific Investigations Report 2022-5067, entitled 'Occurrence of Per- and Polyfluoroalkyl Substances and Inorganic Analytes in

Groundwater and Surface Water Used as Sources for Public Water Supplies in West Virginia,' published in 2022.

(4) 'Publicly Owned Treatment Works' means any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity, for the treatment of pollutants as well as any such treatment works that were subsequently conveyed to a private entity which delivers wastewater treatment services under the regulation of the Public Service Commission of West Virginia.

§22-11C-3. Identification of PFAS sources where PFAS has been detected in raw water sources for public drinking water systems.

(a) To identify and address sources of PFAS in raw water sources of public drinking water systems, DEP shall:

(1) Write a PFAS action plan to identify and address sources of PFAS by July 1, 2024, for each of the 37 raw water sources for which the USGS study has measured PFOA, PFOS, PFBS, or HFPO-DA above the practical quantitation limit and above USEPA's applicable drinking water human health advisory;

(2) For each raw water source for which the USGS study has measured PFOA, PFOS, PFBS, or HFPO-DA above the method detection level, above USEPA's applicable drinking water human health advisory, and below the practical quantitation limit, DEP shall initiate a study to sample the finished water of the associated public water system, after treatment, by December 31, 2023;

(3) For each public water system for which the measured PFOA, PFOS, PFBS, or HFPO-DA in the finished water is above the method detection level and above USEPA's applicable drinking water human health advisory, whether or not the measured value is above or below the practical quantitation limit, DEP shall write a PFAS action plan to identify and address sources of PFAS for the public water system's raw water source or sources. The first 50 such plans shall be completed by December 31, 2025, and the remaining plans shall be completed by December 31, 2026;

(4) For each public water system for which a PFAS action plan is required under this section, DEP shall provide information to the public water system regarding PFAS raw water and finished water sampling results, DEP's schedule for developing any required PFAS action plan, a summary of results from any completed PFAS action plan, information about how to obtain any completed PFAS action plan, and contact information for an appropriate person or office at DEP to which questions can be directed. Public water systems are subject to the Fifth Unregulated Contaminate Monitoring Rule (UCMR), 40 C.F.R. part 141, which are also subject to the Consumer Confidence Report (CCR) and the Public Notification (PN) rules under the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, as enacted, amended, and as may be subsequently amended, to which the public water systems are required to notify their customers of available UCMR results and report UCMR results in their annual Consumer Confidence Report (CCR) when unregulated contaminants, including PFAS, are detected;

(5) Recommend any necessary changes to West Virginia statutes or administrative rules to address the sources of PFAS chemicals; and

(6) Report annually on its activities to the Joint Legislative Oversight Commission on State Water Resources.

(7) In developing PFAS action plans, consult with other applicable units of state government, organizations representing West Virginia public drinking water systems, West Virginia public drinking water systems, and other relevant entities with knowledge related to identifying and addressing PFAS sources.

(b) The PFAS action plans, to the extent that data are available, shall identify the source or sources of PFAS in the raw water source, and regulatory and non-regulatory options for addressing each identified source of PFAS and minimizing the impacts on public water systems.

(c) The PFAS action plans and associated studies herein required do not change the duty or drinking water standard requirements of public water systems.

§22-11C-4. Self-reporting of PFAS manufacture and use, monitoring of PFAS discharges, and establishment of PFAS water quality criteria.

(a) No later than December 31, 2023, all facilities that discharge to a surface water under a West Virginia/National Pollutant Discharge Elimination System permit or that discharge to a Publicly Owned Treatment Works under an industrial pretreatment program, including but not limited to chemical and manufacturing facilities, which manufacture or knowingly use or have used one or more of the following PFAS chemicals in their production process since January 1, 2017, must report the use of these chemicals to the DEP:

(1) Any PFAS chemical found in any public water system's raw water source in the USGS study; and

(2) Any additional PFAS chemicals that the secretary determines are harmful to human health and that he or she reasonably believes to be present in West Virginia waters at levels that can be detected using USEPA-approved methods: *Provided*, That if USEPA-approved methods are not yet available, USEPA-recommended methods may be used. If two or more methods have been approved by USEPA, monitoring shall use the method with the lowest detection level.

(b) This reporting shall include the chemical name, the Chemical Abstracts Service (CAS) number, the amount used in each year from 2017 through 2022, and any additional information required by the secretary to ascertain sources of PFAS chemicals in West Virginia, and shall be provided in a manner and form prescribed by the secretary.

(c) For every facility that reports the use of one or more PFAS chemicals in accordance with subsection (a) of this section, and that discharges to a Publicly Owned Treatment Works, the

secretary shall forward the information provided by the facility to the Publicly Owned Treatment Works within 30 days of receipt. This reporting requirement does not change the duty or discharge permits of a Publicly Owned Treatment Works.

(d) For every facility that reports the use of one or more PFAS chemicals in accordance with subsection (a) of this section, at least quarterly monitoring of the self-reported PFAS chemicals shall be required within six months of notification by the facility: *Provided*, That the secretary may alter the monitoring frequency if monitoring results are below the method detection level for four consecutive samples, or if monitoring results show consistent results and the source or sources of the PFAS detected in the samples have been conclusively determined. This monitoring shall be implemented as follows:

(1) If the facility discharges to a surface water under a West Virginia/National Pollutant Discharge Elimination System permit, the secretary shall modify the facility's West Virginia/National Pollutant Discharge Elimination System permit to require monitoring.

(2) If the facility discharges to a Publicly Owned Treatment Works under an industrial pretreatment program and the permit holder for the Publicly Owned Treatment Works has pretreatment authority, the permit holder for the Publicly Owned Treatment Works shall modify the pretreatment permit held by the facility that reports the use of one or more PFAS chemicals to require monitoring.

(3) If the facility discharges to a Publicly Owned Treatment Works under an industrial pretreatment program and the department has pretreatment authority, the secretary shall modify the pretreatment permit held by the facility that reports the use of one or more PFAS chemicals to require monitoring.

(e) Monitoring shall use laboratory and sampling methods approved by the USEPA: *Provided*, That if USEPA-approved methods are not yet available, USEPA-recommended methods

may be used. If two or more approved methods are available, monitoring shall use the method with the lowest detection level.

(f) For every facility that reports the use of one or more PFAS chemicals in accordance with subsection (a) of this section, the secretary shall modify the facility's West Virginia/National Pollutant Discharge Elimination System permit as directed by the federal Clean Water Act and State Water Pollution Control Act, after consultation with relevant USEPA guidance.

(g) After the USEPA establishes final water quality criteria under the Clean Water Act for any PFAS, DEP shall propose adopting appropriate criteria by rule, which criteria may be no more stringent than the criteria established by USEPA, as part of the next regular legislative rulemaking cycle in accordance with §29A-3-1 *et seq* of this code."

And,

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

Com. Sub. for H. B. 3189 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-11C-1, §22-11C-2, §22-11C-3, and §22-11C-4, all relating to identifying the sources of perfluoroalkyl and polyfluoroalkyl substances discharged into source waters used for public drinking water; providing legislative findings; providing state and federal regulation history, status, and future expectations; providing definitions; requiring the Department of Environmental Protection to begin identifying sources of PFAS in water sources and address sources of PFAS for certain public water systems with action plans; requiring facilities using PFAS chemicals to monitor and report their use; setting forth other duties of those facilities; clarifying duties and obligations of public water systems and water treatment systems; providing information disclosure provisions; requiring the Secretary of the Department of Environmental Protection to propose changes to statutes and rules and to update numeric public water supply human health criteria; requiring the Department of Environmental Protection to implement permit modifications to require monitoring; and requiring legislative rule-making.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 631**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Butler, Dillon, Foster, Kump, C. Pritt, Ridenour, Street and Thorne.

Absent and Not Voting: Mallow.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3189) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3214, To create the Road Optimization & Assessment Data (ROAD) Pilot Project.

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

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

“ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-25. Road optimization and assessment data pilot program; legislative findings and purposes; reporting.

(a) The Legislature hereby finds and declares that:

(1) Properly maintained roads are important to the economic and industrial growth and development of the state and to the health, education, welfare, and prosperity of the state's residents;

(2) Roads that are not well-maintained because of potholes, patching, cracking, road shoulder issues, canopy brush, or drainage issues do not contribute to the health, education, welfare, and prosperity of the residents of this state;

(3) Data is and has been collected by the West Virginia Division of Highways for purposes of an overall assessment and evaluation of road maintenance; and

(4) The purpose of this section is to create a pilot program to study alternative, advanced methods of assessing the conditions of the roads that will lead to improved processes of addressing road maintenance needs.

(b) The Road Optimization and Assessment Data (ROAD) Pilot Program is hereby created. The Commissioner of Highways shall develop and implement the pilot program concerning the collection of data and the overall assessment of the conditions of the paved roads of the state and the repairs and maintenance required to ensure well-maintained roads. The pilot program shall include a combination of urban and rural roads, using Monongalia County and Preston County as the test areas for this pilot program and, to the broadest extent feasible:

(1) Use existing assessments in the pilot counties to teach the program;

(2) Incorporate machine learning (ML), artificial intelligence (AI), or other advanced technologies to assess state roads;

(3) Use Global Positioning System (GPS) data or geotagging, including high accuracy precision GPS, to indicate road geometry and curvature;

(4) Use laser measuring systems, including video, that are capable of longitudinal profiling, identifying and measuring of

cracks, pavement distress, potholes, patching, road shoulder issues, canopy brush, and drainage issues;

(5) Use video for road imagery as well as canopy brush and drainage documentation;

(6) Use a reflectometer system to check the reflectivity of painted lines;

(7) Utilize post-data capture processing to create a baseline for road condition assessment based on standards of the Division of Highways and the ASTM D6433-11 Standard Practice for Roads and Parking Lots Pavement Condition Index Surveys; and

(8) Incorporate the data gathered pursuant to this section within the Division of Highways' existing pavement management system, or an alternative machine learning or artificial intelligence system in order to improve predictive analysis of roads and to guide in the performance of preventive maintenance for roads rather than reactive maintenance.

(c) The commissioner shall provide for the data capturing and processing pursuant to this section at intervals determined by the commissioner to adequately collect and assess data for maintenance purposes: *Provided*, That data capturing and processing shall occur at least twice during the pilot project. The data shall compare the changes in road conditions, such as deterioration of roads from previous conditions, average daily traffic, and heavy truck traffic if such information is available.

(d) The term of this pilot program is five years. At the conclusion of year two and year four of the pilot program, and at the conclusion of the pilot program, the commissioner shall report to the Joint Legislative Oversight Commission on Department of Transportation Accountability on the steps taken to implement the pilot program, identify the technologies used in the pilot program, outline the data collected through the pilot program, identify costs of the pilot program, summarize any improvements in road maintenance and pavement management processes that may be realized through the pilot program, and make recommendations

concerning improvements to and continuation of the pilot program.”

And,

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

Com. Sub. for H. B. 3214 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-25, relating to creating the Road Optimization and Assessment Data Pilot Program; setting forth legislative findings and purpose; requiring the Commissioner of Highways to implement the program; specifying assessment methods and term of program; and requiring reporting by the Division of Highways.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 632**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Dillon, Gearheart, A. Hall, Smith and Thorne.

Absent and Not Voting: Mallow.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3214) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3265, Remove statutory mandates that the sheriff of a county shall serve process or is responsible for cost of service or arrest by another law enforcement agency.

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

On page 1, section 14, lines 12-15, by striking out all of subsection (b) and inserting in lieu thereof a new subsection (b), to read as follows:

“(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.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 633**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Foster and Mallow.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3265) passed.

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

A message from the Senate, by

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

H. B. 3499, To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship.

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

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

**“ARTICLE 12. UNIFORM REAL PROPERTY TRANSFER
ON DEATH ACT.**

**§36-12-11. Revocation by instrument authorized; revocation
by act not permitted.**

(a) Subject to subsection (b) of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, ~~only~~ if the instrument:

(1) Is one of the following:

(A) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(B) An instrument of revocation that expressly revokes the deed or part of the deed; or

(C) ~~An inter vivos deed that expressly revokes the transfer on death deed or part of the deed~~ As to property that was described in a transfer on death deed made by a transferor and previously recorded, an inter vivos deed made by the same transferor that conveys the same real estate, or part thereof, whether or not the inter vivos deed expressly revokes the transfer on death deed, or part of the deed; and

(2) Is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the office of the clerk of the county commission of the county where the deed is recorded.

(b) If a transfer on death deed is made by more than one transferor ~~(1) Revocation~~ revocation by a transferor does not affect the deed as to the interest of another transferor; and ~~(2) A~~ a deed of joint owners is revoked only if it is revoked by all of the living joint owners.

(c) After a transfer on death deed is recorded it may not be revoked by a revocatory act on the deed.

(d) This section does not limit the effect of an *inter vivos* transfer of the property.

36-12-13. Effect of transfer on death deed at transferor's death

(a) Except as otherwise provided in the transfer on death deed in this article, ~~section six, article one, chapter forty one of this code §41-1-6 of this code, section three, article three, chapter forty one of this code §41-3-3 of this code, article three, chapter forty two of this code §42-3-1, et seq. of this code, section two, article four, chapter forty two of this code §42-§4-2 of this code, or article five, chapter forty two of this code §42-5-1, et seq. of this code,~~ on the death of the transferor the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) Subject to subdivision (2) of this subsection, the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(2) The interest of a designated beneficiary, when there is only one beneficiary designated, is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor, when there is only one beneficiary designated, lapses.

(3) Subject to subdivision (4) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares ~~with no right of survivorship, unless the deed specifies otherwise, as tenants in common or with right of survivorship if the deed specifies joint tenancy with right of survivorship.~~

(4) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently as tenants in

common or with right of survivorship if the deed specifies joint tenancy with the right of survivorship.

(b) Subject to ~~article two, chapter thirty nine and chapter thirty eight of this code §39-2-1, et seq., and §38-1-1, et seq. of this code,~~ a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens and other interests to which the property is subject at the transferor's death. For purposes of this subsection, ~~article two, chapter thirty nine and chapter thirty eight of this code, §39-2-1, et seq. and §38-1-1, et seq. of this code,~~ the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(c) If a transferor is a joint owner with other joint owners with right of survivorship and is:

(1) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(2) The last surviving joint owner, the transfer on death deed is effective.

(d) If a transferor is an owner with other owners as tenants in common, the transfer on death deed is only effective as to the interest in the property which was held by the transferor.

(e) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(f) The amendments to this section, enacted during the 2023 regular session of the Legislature, shall apply only to transfer on death deeds recorded after the effective date of this section."

And,

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

H. B. 3499 – "A Bill to amend and reenact §36-12-11 of the Code of West Virginia, as amended, and to amend and reenact §36-

12-13 of said code, all relating to transfer on death deeds; and specifically clarifying that an inter vivos transfer of a piece of real property that is the subject of a transfer on death deed causes the transfer on death deed to be revoked, with or without express language of revocation; and permitting transfer on death deeds to specify that the possessory interest conveyed can, if so provided in the language of the deed, transfer a joint tenancy with right of survivorship.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 634**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Mallow and Steele.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3499) passed.

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

A message from the Senate, by

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

H. B. 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee’s designated office.

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

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

“ARTICLE 4. REGULATED CONSUMER LENDERS.**§46A-4-114. Permitting licensee to conduct business at remote location.**

(a) Notwithstanding any provision of this article to the contrary, but subject to the requirements of this section, employees of a West Virginia licensee located in West Virginia may perform work for the licensee at their residence: *Provided*, That such a residence is located within 100 miles of a licensed West Virginia corporation or branch office: *Provided, however*, That nothing in this subsection restricts employees of the licensee from participating in regulated consumer lending activities at other locations for limited periods of time. Any regulated consumer lender 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; and

(2) Certify annually to the commissioner that the provisions of this section have been met as to each employee working at another location.”

And,

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

H. B. 3500 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §46A-4-114, relating to permitting employees of regulated consumer lenders to conduct work at their residence if certain requirements are met.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 635**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: A. Hall, Mallow, Nestor and Steele.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3500) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was referred to the Committee on Rules.

S. C. R. 24 - "Renaming the Mount Olive Correctional Complex and Jail the Mike V. Coleman Maximum Security Complex.

Resolutions Introduced

Resolutions were introduced and severally referred as follows:

By Delegates Linville, Hornbuckle, Adkins, Anderson, Bridges, Brooks, Burkhammer, Butler, Cannon, Chiarelli, Clark, Coop-Gonzalez, Crouse, Dean, DeVault, Dillon, Dittman, Ferrell, Fluharty, Foggin, Forsht, Garcia, A. Hall, W. Hall, Hanna, Hansen, Heckert, Hillenbrand, Hite, Holstein, Honaker, Horst, Hott, Howell, Jennings, Keaton, Kirby, Kump, Longanacre, Lucas, Marple, Mazzocchi, Miller, Petitto, Phillips, C. Pritt, E. Pritt, Pushkin, Ross, Rowe, Scaff, Street, Tully, Ward, Warner, Williams, Willis and Young:

H. R. 18 – “Urging the Congress of the United States to enact federal law that allows for the expiration on pharmaceutical product patents when the developer of the product has utilized the

patent laws of the United States to charge in many cases ten or twenty times the costs to consumers in the United States as compared to other developed countries, in effect utilizing the patent laws of the United States for the unintended purpose of price gouging consumers”; which was referred to the Committee on Rules.

By Delegates Holstein, Adkins, Anderson, Barnhart, Brooks, Burkhammer, Butler, Cannon, Capito, Chiarelli, Clark, Cooper, Coop-Gonzalez, Criss, Crouse, Dean, DeVault, Dittman, Ellington, Espinosa, Fast, Fehrenbacher, Ferrell, Fluharty, Forsht, Foster, Garcia, Gearheart, Griffith, A. Hall, W. Hall, Hanna, Hansen, Hanshaw (Mr. Speaker), Hardy, Heckert, Hillenbrand, Hite, Honaker, Hornbuckle, Hornby, Horst, Hott, Householder, Howell, Jeffries, Jennings, Keaton, Kelly, Kimble, Kirby, Linville, Longanacre, Lucas, Marple, Maynor, Mazzocchi, McGeehan, Miller, Petitto, Phillips, Pinson, C. Pritt, E. Pritt, Pushkin, Reynolds, Ridenour, Riley, Rohrbach, Rowe, Shamblin, Sheedy, Skaff, Smith, Statler, Steele, Storch, Street, Summers, Thorne, Toney, Tully, Vance, Walker, Ward, Warner, Westfall, Williams, Willis, Young and Zatezalo:

H. C. R. 80 – “Requesting the Joint Committee on Government and Finance to study pediatric cancer in Appalachia and to provide directive language asking for a report on this issue in the Appalachian region”; which was referred to the Committee on Rules.

By Delegates Hillenbrand, DeVault and Linville:

H. C. R. 81 – “Requesting that the Joint Committee on Government and Finance study the problem of tire disposal and finding solutions to rid our landscape of waste tires”; which was referred to the Committee on Rules.

And,

By Delegates Capito, Westfall, Fast, Hornby, Criss and Summers:

H. C. R. 82 – “Proclaiming the month of February to be designated annually as West Virginia Cancer Prevention Month”; which was referred to the Committee on Rules.

Special Calendar

Third Reading

Com. Sub. for S. B. 47, Creating Charter Schools Stimulus Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 636**), and there were—yeas 62, nays 36, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Nays: Adkins, Bridges, Cooper, Dean, Dillon, Ferrell, Fluharty, Foggin, Garcia, Griffith, W. Hall, Hansen, Heckert, Hornbuckle, Kirby, McGeehan, E. Pritt, Pushkin, Reynolds, Riley, Rohrbach, Ross, Rowe, Shamblin, Sheedy, Skaff, Storch, Summers, Toney, Tully, Walker, Warner, Westfall, Williams, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Householder and Mallow.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 47) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 121, Creating Student Journalist Press Freedom Protection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 637**), and there were—yeas 95, nays 1, absent

and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Foggin.

Absent and Not Voting: Bridges, Mallow, Reynolds and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 121) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 147, Creating pilot program for recovery residences in Cabell County; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 638**), and there were—yeas 43, nays 52, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Barnhart, Cannon, Capito, Cooper, Coop-Gonzalez, Criss, Crouse, DeVault, Espinosa, Fast, Fehrenbacher, Forsht, Gearheart, W. Hall, Hardy, Heckert, Honaker, Hott, Householder, Howell, Jeffries, Jennings, Kelly, Kimble, Linville, Lucas, Mazzocchi, Miller, Petitto, Phillips, Pinson, C. Pritt, Riley, Rohrbach, Ross, Shamblin, Vance, Ward, Warner, Westfall, Willis, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Mallow, Martin, Skaff and Worrell.

So, a majority of the members present not having voted in the affirmative, the Speaker declared the bill (S. B. 147) was rejected.

Com. Sub. for S. B. 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students;

on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, was adopted, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-11b. Imposition of sexual acts on students at least 18 years of age but less than 20 years of age enrolled in secondary schools; penalties.

(a) Any person who is not married to the student and is a teacher, professor, assistant professor, adjunct faculty, teacher’s assistant, principal, counselor, coach, other school employee, contracted service worker, or volunteer of any private or public secondary school or any college, university, vocational school, or community and technical college who has supervisory or disciplinary power of any nature or in any capacity over the student and engages in sexual intercourse, sexual intrusion, or sexual contact, as those terms are defined in §61-8B-1 of this code, with the student enrolled in the school who is at least 18 years of age but less than 20 years of age is guilty of a felony and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years or fined not more than \$5,000 or both imprisoned and fined. The fact that the student may have consented to such an act or that the act did not occur on school property or during a school function is not a defense.

(b) 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.

(c) 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.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 639**), and there were—yeas 90, nays 7, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Foggin, Horst, Kump, Marple, Phillips, Ward and Zatezalo.

Absent and Not Voting: Bridges, Mallow and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 187) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 187 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8B-11b, relating to making it a felony offense for any school employee or volunteer to engage in sexual intercourse, sexual intrusion, or sexual contact with any student 18 years of age but less than 20 years of age enrolled in the school where the person has supervisory or disciplinary power over the student; specifying the application of the section; creating a marital exception; declaring that neither consent nor location where an offense occurs is a defense to prosecution; specifying the criminal penalties for this offense; and declaring that a final conviction under this section causes the permanent revocation of any education related certificate the school employee may hold.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 200, Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 640**), and there were—yeas 95, nays none,

absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hornbuckle, Longanacre, Mallow and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 200) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 200 – “A Bill to amend and reenact §20-2-5j of the Code of West Virginia, 1931, as amended, relating to adding mortally wounded elk, turkey, and wild boar to list of wounded animals that may be tracked and located using a leashed dog; allowing certain physically disabled hunters to allow dog handler to kill mortally wounded animal; and providing that mortally wounded animal shall count toward bag limit of hunter who fired initial shot.”

Com. Sub. for S. B. 220, Industrial Hemp Development Act; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 19. AGRICULTURE.

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

§19-12E-12. Regulation of Select Plant-Based Derivatives: Industrial Hemp.

(a) This section shall be known as the Select Plant-Based Derivatives Regulation Act: Industrial Hemp.

(b) The Legislature finds that certain plant-based derivatives can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of the act is to allow limited, regulated access to certain 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, notwithstanding any provision of this section to the contrary, naturally occurring plant-based derivative products not containing tetrahydrocannabinol content may be sold, used, or possessed by persons under the age of 21 years.*

(c) As used in this section:

(1) ‘Alcohol Beverage Control Commissioner’ means the Alcohol Beverage Control Commissioner or his or her designees.

(2) ‘Commissioner’ means the Commissioner of Agriculture or his or her designees.

(3) ‘Contaminated’ means made impure and unsafe by biological, chemical, or physical additives.

(4) ‘Department’ 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) ‘Hemp-derived cannabinoid’ means a naturally occurring non-synthetic substance as follows:

(A) Delta-9 tetrahydrocannabinol with a concentration level consistent with 7 U.S.C. §5940;

(B) Delta-8 tetrahydrocannabinol;

(C) Delta-10 tetrahydrocannabinol;

(D) Hexahydrocannabinol;

(E) Tetrahydrocannabiphorol (THCp); and

(F) Tetrahydrocannabivarin (THCv).

(7) ‘Manufacturer’ means a person or entity which grows industrial hemp.

(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 a product that is unlawful pursuant to 7 U.S.C. §5940 or otherwise violates applicable federal regulations.

(9) ‘Processor’ 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) ‘Seller’ means a person or entity that distributes, offers for sale, or sells hemp-derived products to persons for personal consumption.

(11) ‘Retail sales’ means the sale of hemp-derived products in a commercial setting as determined and set forth in rules promulgated by the commissioner.

(d) 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. The commissioner may issue manufacturer, processor and retailer permits.

(e) The Commissioner of Agriculture 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;

(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.

(11) Any other rules and procedures necessary to carry out the purposes of this article.

(f) The Commissioner of Agriculture and the Alcohol Beverage Control Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules as are necessary to effectuate the purposes of this article.

(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 may employ an age verification mechanism approved by the commissioner.

(i) In addition to all other applicable taxes, there is hereby levied an additional tax equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids for the privilege of engaging in the business of selling hemp-derived cannabinoid products.

(1) 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 subdivision (6), subsection (a) of this section, there is hereby levied upon and collected from every person exercising the privilege a privilege tax.

(2) The rate of tax imposed by this subsection is 11 percent of the retail sales price of hemp-derived cannabinoid products sold during the reporting period, depending upon the person's method of accounting for federal income tax purposes. 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.

(3) 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 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.

(4) 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.

(5) If any retailer does not renew its permit, relinquishes its permit, has said 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.

(6) All money received from the tax imposed under this subsection, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

(7) 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.

(8) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this section to the contrary, the Tax Commissioner, and the commissioner shall enter into written agreements pursuant to which the Tax Commissioner shall disclose to designated employees of the department, whether a particular retailer is in good standing with the Tax Commissioner, and the commissioner shall disclose to designated employees of the Tax Commissioner information a retailer provides to the 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.

(9) 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 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;

(ii) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-9-8 of this code;

(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 §16A-9-1 of this code, 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 §16A-9-1 *et seq.* of this code and were set forth in extenso in §16A-9-1 *et seq.* of this code.

(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 §16A-9-1 *et seq.* with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 *et seq.* of this code and were set forth in extenso in §16A-9-1 *et seq.* of this code.

(j) All fees collected pursuant to the provisions of this subsection 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.

(k)(1) The provisions of this section related to retail sales shall be enforced by the commissioner with the assistance of the Alcohol Beverage Control Commissioner.

(2) The commissioner and the Alcohol Beverage Control Commissioner shall enter into a memorandum or memoranda of understanding to facilitate the enforcement of this section.

(l)(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 is authorized to enforce the criminal provisions of this section, and enforcement agents of the Alcohol Beverage Control Commissioner are authorized to 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 provisions of this subsection 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.

ARTICLE 12F. SELECT PLANT-BASED PRODUCT REGULATION ACT: KRATOM.

§19-12F-1. Short title.

This article shall be known as the Select Plant-Based Product Regulation Act: Kratom.

§19-12F-2. Findings; purpose.

The legislature finds that select plant-based derivatives, including kratom, can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of this article is to allow limited regulated assess to kratom for adults 21 years of age and older.

§19-12F-3. Definitions.

(1) ‘Alcohol Beverage Control Commissioner’ means the Alcohol Beverage Control 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’ 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 yellow-flowered tropical tree which contains the alkaloids mitragynine and 7-hydroxymitragynine.

(6) ‘Kratom product’ means a food product, food ingredient, dietary agreement, dietary supplement, or beverage intended or marketed for human consumption containing any part of the leaf of the plant mitragyna speciosa.

(7) ‘Manufacture’ means a person or entity which grows kratom for commercial purposes.

(8) ‘Processor’ means a person or entity that processes, distributes, sells, or offers for sale, kratom or kratom products in this state on a wholesale basis to a retailer.

(9) ‘Retailer’ 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; regulation.

Any person manufacturing, processing, distributing, offering for sale, or selling 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 permits for manufacturers, processors, and retailers.

§19-12F-5. Rule-making authority.

(a) 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, process, distribute, offer for sale, or sell kratom;

(2) Sampling and testing of kratom to determine purity levels;

(3) Supervision of the kratom during its manufacture, processing, and sale;

(4) Assessment of fees that are commensurate with the costs of the Commissioner of Agriculture's activities in permitting, testing, and supervising the regulation of kratom and the sale of kratom products;

(5) The production, processing, sale, possession, distribution, or transport of kratom products;

(6) Developing standards for the labeling of kratom products to include, at a minimum, a statement which says 'KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY MEDICATION';

(7) Developing guidelines or standards related to the display or staging of kratom products to increase the safety of underage patrons in retail environments;

(8) Developing prohibitive standards as to child targeted packaging and shapes and forms of products;

(9) Developing administrative rules, procedures, and sanctions for violations of this section;

(10) Any other rules and procedures necessary to carry out the provisions of this article.

(b) The Commissioner of Agriculture and the Alcohol Beverage Control Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules as are necessary to effectuate the purposes of this article.

§19-12F-6. Age verification requirements.

(a) Any website owned, managed, or operated by a person who manufactures, processes, distributes, offers for sale, or sells a product containing kratom or kratom products to persons in this state shall employ a neutral age-screening mechanism that verifies

that the user is at least 21 years old, including by using an age-gate, age-screen, or other age-verification mechanism approved by the commissioner.

(b) Any person or entity distributing, offering to distribute or sell, or selling kratom or kratom 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.

§19-12-F-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.

(b) The rate of tax imposed by this subsection is 11 percent of the retail sales price of kratom or kratom products sold during the reporting period.

(c) 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 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.

(d) 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.

(e) If any retailer does not renew its permit, relinquishes its permit, has said 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 tax imposed under this subsection, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, 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 section to the contrary, the Tax Commissioner, and the commissioner shall enter into written agreements pursuant to which the Tax Commissioner shall disclose to designated employees of the department, whether a particular retailer is in good standing with the Tax Commissioner, and the commissioner shall disclose to designated employees of the Tax Commissioner information a retailer provides to the 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 as the Tax Commissioner necessary to the efficient administration of taxes imposed by this subsection.

(1) Funds from the tax imposed by the provisions of this subsection 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;

(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 §16A-9-1, 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 the West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by §16A-9-1 *et seq.* of this code and were set forth in extenso in §16A-9-1 *et seq.* of this code..

(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 §16A-9-1 *et seq.* with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 *et seq.* of this code and were set forth in extenso in §16A-9-1 *et seq.* of this code.

(l) All fees collected pursuant to the provisions of subsection 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.

§19-12F-8 Application and registration fees.

(a) Applicants for kratom and kratom manufacturer, processor, 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) Processor 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.

§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 Commissioner.

(b) The commissioner and the Alcohol Beverage Control Commissioner shall enter into a memorandum or memoranda of understanding to facilitate enforcement of this article.

§19-12F-10. Contraband; seizures; forfeitures; and destruction.

(a) Any kratom or kratom product found in this state in violation of this article is hereby declared contraband and any property interest in the kratom or kratom product is vested in the State of West Virginia and is subject to seizure and forfeiture and destruction.

(b) Any certified law enforcement officer in this state may enforce the criminal provisions of this article, and any enforcement agent of the Alcohol Beverage Control Commissioner is authorized to enforce the administrative provisions of this article as it relates to retailers.

§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 a kratom or 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 and imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 10. ENFORCEMENT AUTHORITY RELATING TO RETAIL SALE OF SELECT PLANT-BASED DERIVATIVES.

§60-10-1. Enforcement authority; jurisdiction.

The commissioner is hereby authorized to enforce the provisions of §19-12E-1 *et seq.* of this code and §19-12F-1 *et seq.* of this code, as relating to retail sales.

§60-10-2. General provisions.

For the purposes of enforcing §19-12E-1 *et seq.* and §19-12F-1 *et seq.* of this code, the Alcohol Beverage Control Commission and the Commissioner of Agriculture may request information from any state agency, Constitutional officer, or local agency and, notwithstanding the provisions of §11-10-5d of this code or any other provision of this code, may share information with, and request information from, any federal agency and any agency or Constitutional officer of this or of any other state or any local agency thereof.”

An amendment sponsored by Delegate Fluharty was reported by the Clerk.

Whereupon,

Delegate Fluharty asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Capito, the amendment was amended on page 1, section 12, line 7, after the words ‘Provided, That’ by striking the remainder of the subsection and inserting in lieu thereof the words ‘the provisions of this section shall not apply to naturally occurring plant-based derivative products not containing tetrahydrocannabinol content.’

The Committee on the Judiciary amendment, as amended, was then adopted.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 641**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon, Jennings, Marple and C. Pritt.

Absent and Not Voting: Bridges, Longanacre, Mallow and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 220) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 220 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-12E-12; to amend said code by adding thereto a new article, designated §19-12F-1, §19-12F-2, §19-12F-3, §19-12F-4, §19-12F-5, §19-12F-6, §19-12F-7, §19-12F-8, §19-12F-9, §19-12F-10, and §19-12F-11; to amend and reenact §60-7-12 and §60-7-13 of said code; and to amend said code by adding thereto a new article, designated §60-10-1 and §60-10-2, all relating to further regulation of hemp-derived cannabinoid products and

regulation of kratom; creating the Select Plant-Based Derivatives Regulation Act: Industrial Hemp; creating the Select Plant-Derived Regulation Act: Kratom; making legislative findings and declaring the purpose of the acts; providing applicability; defining terms; requiring permits to manufacture, process, distribute, offer to sell, and sell regulated products; vesting regulatory authority in the Commissioner of Agriculture and the Alcohol Beverage Control Commission; granting legislative and emergency rule-making authority to the Commissioner of Agriculture and the Alcohol Beverage Control Commissioner; establishing an internal effective date from passage for purposes of declaring illegal products contraband and authorizing seizure, forfeiture, and destruction; limiting lawful sale of certain regulated products to persons 21 years of age or older; requiring age verification for internet sales and sales not made face-to-face; creating a eleven percent tax on retail sales to be collected by the Tax Commissioner quarterly for certain hemp products and kratom products; establishing distribution of tax revenue; authorizing the Alcohol Beverage Control Commissioner to enforce regulation of the product at the retail level; clarifying Alcohol Beverage Control Commissioners authority over alcohol licensees selling kratom and hemp-derived cannabinoid products; and creating criminal offenses related to regulated products and establishing criminal penalties therefor.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 232, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 642**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Chiarelli, Mallow and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 232) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 232 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-12, relating to creating a multi-disciplinary study group to make recommendations regarding the diversion of persons with mental illness, developmental disabilities, cognitive disabilities, substance abuse problems, and other disabilities from the criminal justice system; setting forth findings; listing the membership makeup of the study group; promoting appropriate interventions and placements for inmates and persons with disabilities; developing a plan to coordinate care, treatment, and placement for persons with disabilities in the criminal justice system and in the community; directing a report be made to Legislature on or before November 30, 2023; and authorizing per diem expenses for nongovernmental members.”

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 643**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Chiarelli, Linville, Mallow and Skaff.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 232) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 240, Requiring state board of examination or registration proceedings to be open to public inspection; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 644**), and there were—yeas 74, nays none, absent and not voting 26, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Bridges, Cooper, Crouse, Dean, Ellington, A. Hall, Heckert, Hite, Honaker, Hornbuckle, Horst, Jeffries, Jennings, Kirby, Mallow, McGeehan, C. Pritt, Ridenour, Rohrbach, Rowe, Shamblin, Skaff, Street, Westfall and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 240) passed.

On motion of Delegate Phillips, the title of the bill was amended to read as follows:

S. B. 240 - “A Bill to amend and reenact §30-1-12 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated as §30-1-12a; and to amend and reenact §30-1-13 of said code, all relating to professional licensing boards’ collection and dissemination of certain records and information; providing for public access to the record of each board’s proceedings; providing for public access to each board’s register of applicants; stating information that must be provided in order to access the register of applicants; giving each board discretion to deny requests for the register of applicants; requiring each board to maintain a website that provides certain information about the board; defining terms; prohibiting the disclosure of sensitive personally identifiable information; providing that boards shall not be prohibited from providing information related to the qualifications and practice of licensees and registrants; providing that certain personal information of licensed practitioners shall not be disclosed; requiring the roster of licensed practitioners to be posted on each board’s website.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 247, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 645**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Bridges, Cooper, Ellington, Hardy, Heckert, Hite, Honaker, Horst, Mallow and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 247) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 258, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment sponsored by Delegate Steele was reported by the Clerk.

Whereupon,

Delegate Steele asked and obtained unanimous consent that the amendment be withdrawn.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 646**), and there were—yeas 93, nays none,

absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Cooper, Foggin, Hardy, Honaker, Kump and Mallow.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 258) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 271, Modifying approval process requirements for First Responders Honor Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 647**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Foggin, Hite, Kump and Mallow.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 271) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 298, Relating to non-federally declared emergencies and non-states of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 648**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, Hite, Mallow and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 298) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 649**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hite, Mallow and Zatezalo.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 298) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 302, Relating to Law Enforcement Safety Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 650**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Anderson, Coop-Gonzalez, Foster, Gearheart, Hite, Holstein, Kirby, Mallow, Williams and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 302) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 361, Authorizing miscellaneous boards and agencies to promulgate legislative rules; on third reading,

coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 9. AUTHORIZATION FOR DEPARTMENT OF
MISCELLANEOUS AGENCIES AND BOARDS TO
PROMULGATE LEGISLATIVE RULES.**

§64-9-1. Board of Accountancy.

The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-9-5 of this code, relating to the Board of Accountancy (board rules of professional conduct, 1 CSR 01), is authorized.

§64-9-2. Board of Acupuncture.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-14(f) of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (advertising by licensed acupuncturists, 32 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (standards of practice of acupuncture by licensed acupuncturists, 32 CSR 06), is authorized with the amendment set forth below:

On page 3, by inserting a new section, designated section 6.3. to read as follows:

6.3. Hand washing – The acupuncturist shall vigorously scrub his or her hands with soap and warm water immediately before examining patients or handling acupuncture needles and other instruments and between patients.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 09), is authorized.

§64-9-3. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 18, 2022, authorized under the authority of §19-13-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2022, relating to the Department of Agriculture (West Virginia apiary rule, 61 CSR 02), is authorized with the amendment set forth below:

On page 2, by striking out all of section 3.1. and inserting in lieu thereof a new section 3.1. to read as follows:

3.1. The Commissioner shall furnish an application for registration of bees to all person known to keep bees. The Commissioner shall mail the applications during the month of June to all persons who have registered their bees during the previous year. Upon receipt of a properly executed bee registration application, the Commissioner shall issue a certificate of registration which will be based upon the information provided on the application.

(b) The legislative rule filed in the State Register on May 12, 2022, authorized under the authority of §19-2-10 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the

Department of Agriculture (schedule of charges for inspection services: fruit, 61 CSR 08B), is authorized.

(c) The legislative rule filed in the State Register on June 14, 2022, authorized under the authority of §19-12D-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (noxious weeds rule, 61 CSR 14A), is authorized.

(d) The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §19-11E-8(1) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (Grade "A" pasteurized milk, 61 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on November 15, 2021, authorized under the authority of §19-29-4 of this code, modified by the Agriculture Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 26, 2022, relating to the Agriculture Commissioner (inspection of nontraditional, domesticated animals, 61 CSR 23D), is authorized.

(f) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §19-12E-7 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (hemp products, 61 CSR 30), is authorized.

(g) The legislative rule filed in the State Register on June 2, 2022, authorized under the authority of §19-1C-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the

Department of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(h) The legislative rule filed in the State Register on May 18, 2022, authorized under the authority of §11-13DD-5(b) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farm to food bank tax credit, 61 CSR 36), is authorized with the amendments set forth below:

On page 3, after “5.2.c.” by inserting the following: “No more than \$200,000 of tax credits may be allocated to the Department of Agriculture in any fiscal year.”

And,

On page 4, by striking out section 5.3 and inserting in lieu thereof a new section 5.3. to read as follows:

5.3. After review of the receipt form and any supporting documentation, and after ensuring that the limit of \$200,000 of tax credits per fiscal year has not been exceeded, the Department of Agricultural shall determine the amount, if any, of the tax credit due to the farming taxpayer. The amount of the credit is equal to 30 percent of the value of the donated edible agricultural products, but not to exceed \$5,000 during a taxable year.

(i) The legislative rule filed in the State Register on June 24, 2022, authorized under the authority of §19-35-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farmers markets, 61 CSR 38), is authorized with the amendment set forth below:

On page 6, by striking out subdivision 6.2.h. and inserting in lieu thereof a new subdivision 6.2.h. to read as follows:

6.2.h. Any potentially hazardous freeze-dried foods.

§64-9-4. Athletic Commission.

(a) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §29-5A-3a of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-5. State Auditor.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §12-3-13b of this code, relating to the State Auditor (standards for voluntary payroll deductions, 155 CSR 03), is authorized.

§64-9-6. Conservation Agency.

(a) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4a of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (operation of West Virginia State Conservation Committee and conservation districts, 63 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4 of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation

Agency (conservation district accounting and auditing standards, 63 CSR 04), is authorized.

§64-9-7. Board of Dentistry.

The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Dentistry (dental recovery networks, 5 CSR 15), is authorized.

§64-9-8. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements, 6 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (crematory requirements, 6 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07), is authorized.

§64-9-9. Board of Landscape Architects.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Board of Landscape Architects (registration of landscape architects, 9 CSR 01), is authorized.

§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3-7(a) of this code, relating to the Board of Medicine (licensing of physicians and podiatric physicians and disciplinary procedures for applicants, licensees, credential holders, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Medicine (licensure, practice requirements, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7(c) of this code, relating to the Board of Medicine (collaborative pharmacy practice, 11 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §30-3-14 of this code, relating to the Board of Medicine (prohibiting sexual misconduct by health care practitioners, 11 CSR 16), is authorized with the amendment set forth below:

On page 5, subdivision 9.1.2., after the period, by striking proviso in its entirety.

§64-9-11. Board of Optometry.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-1-26 of this code, modified

by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Optometry (optometric telehealth practice, 14 CSR 12), is authorized with amendment set forth below:

On page 4, by striking out all of section 5.1. and inserting in lieu thereof a new section 5.1. to read as follows:

5.1. Nothing in this section shall be construed to invalidate §30-8A-3 or to permit use of any automated refractor or other automated or remote testing device to generate refractive data.

§64-9-12. Board of Osteopathic Medicine.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-13. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized with the amendments set forth below:

On page 10, subsection 4.3, after the word “to” by inserting the words “six”;

And,

On page 40, by striking out the entirety of subdivision 24.1.b. and inserting in lieu there of a new subdivision 24.1.b. to read as follows:

24.1.b. for drug regimen review of prescription orders for a patient in an institutional facility, for the pharmacist to authorize

the dispensing and administration, provided the pharmacist is licensed to practice pharmacist care in West Virginia.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Uniform Controlled Substance Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (registration of pharmacy technicians, 15 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (pharmacy permits, 15 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on April 4, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (inspections, 15 CSR 19), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60B-1-8 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Donated Drug Repository Program, 15 CSR 20), is authorized.

§64-9-14. Psychologists.

The legislative rule filed in the State Register on September 7, 2022, authorized under the authority of §30-21-6 of this code, relating to the Board of Examiners of Psychologists (code of conduct, 17 CSR 06), is authorized.

§64-9-15. Board of Registered Professional Nurses.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (advanced practice registered nurse licensure requirements, 19 CSR 07), is authorized with the amendment set forth below:

On page 7, by inserting a new subsection 10.2., to read as follows:

10.2. In case of national recertification, any licensure suspension shall immediately be removed, and no further discipline may occur, if information is provided indicating that recertification has not lapsed.

(c) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-15a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (continuing education and competence, 19 CSR 11), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (fees for services rendered by the board, 19 CSR 12), is authorized with the amendments set forth below:

On page 1, subsection 2.4., by striking out the number “30.00” and inserting in lieu thereof the number “20.00”;

On page 2, subsection 2.8., by striking out the number “35.00” and inserting in lieu thereof the number “25.00”;

And,

On page 2, by striking out subsection 2.20. and renumbering the remaining subsections.

(f) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §60A-9-5a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (practitioner requirements for accessing the West Virginia Controlled Substance Monitoring Program database, 19 CSR 14), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-1-26 of this code, relating to the Board of Registered Professional Nurses (telehealth practice; requirements; definitions, 19 CSR 16), is authorized.

§64-9-16. Secretary of State.

(a) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-3-2a of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (early voting in-person satellite precincts, 153 CSR 13), is authorized.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(c) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-1A-9 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (administrative procedures for the Nonpublic Funding for Election Administration Fund, 153 CSR 54), is authorized.

§64-9-17. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §36-8-28 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (enforcement of the Uniform Unclaimed Property Act, 112 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on April 21, 2022, authorized under the authority of §18-31-9 of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the

State Register on January 25, 2023, relating to the Treasurer's Office (Hope Scholarship Program, 112 CSR 18), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §18-30A-16 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (Jumpstart Savings Program, 112 CSR 20), is authorized.”

On motion of Delegate Capito, the amendment was amended, on page 1, section 2, subsection (b) after line 10 by inserting the following:

On page 2, by striking out section 6.1 and inserting in lieu thereof a new section 6.1 to read as follows:

“Injection therapy- A practitioner shall be limited to perform pointpuncture injections using sterile disposable needles and sterile solutions. Injection therapy shall be the injection of sterile herbs, vitamins, minerals, homeopathic substance, or other similar substances specifically manufactured for injection into acupuncture points by means of sterile needles used primarily for this purpose. Permissible substances include saline, glucose, lidocaine, procaine, oriental herbs, vitamin B-12, traumeel, sarapin, and homeopathic substances. Practitioners trained in injection therapy must comply with the ability to perform resuscitative procedures, including access to epinephrine injections and nasal oxygen if their patient exhibits symptoms of anaphylaxis;”

The Committee on the Judiciary amendment, as amended, was then adopted.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 651**), and there were—yeas 75, nays 1, absent and not voting 24, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Barnhart, Bridges, Clark, DeVault, Dittman, Fehrenbacher, Ferrell, Fluharty, Griffith, A. Hall, W. Hall, Hillenbrand, Hornbuckle, Linville, Mallow, Marple, Martin, Mazzocchi, Nestor, C. Pritt, Pushkin, Ridenour, Shamblin and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 361) passed.

An amendment to the title of the bill, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S.B. 361 – “A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing and directing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; relating to authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules of professional conduct; relating to authorizing the Board of Acupuncture to promulgate a legislative rule relating to advertising by licensed acupuncturists; relating to authorizing the Board of Acupuncture to promulgate a legislative rule relating to standards of practice of acupuncture by licensed acupuncturists; relating to authorizing the Board of Acupuncture to promulgate a legislative rule relating to continuing education requirements; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to the West Virginia apiary rule; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to schedule of charges for inspection services: fruit; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to noxious weeds; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to Grade "A" pasteurized milk; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to inspection

of nontraditional, domesticated animals; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to hemp products; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to farm-to-food bank tax credit; relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to farmers markets; relating to authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules; relating to authorizing the Athletic Commission to promulgate a legislative rule relating to regulation of mixed martial arts; relating to authorizing the State Auditor to promulgate a legislative rule relating to standards for voluntary payroll deductions; relating to authorizing the Conservation Agency to promulgate a legislative rule relating to operation of West Virginia State Conservation Committee and conservation districts; relating to authorizing the Conservation Agency to promulgate a legislative rule relating to conservation district accounting and auditing standards; relating to authorizing the Board of Dentistry to promulgate a legislative rule relating to dental recovery networks; relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holders, and funeral establishment requirements; relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to crematory requirements; relating to authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to a fee schedule; relating to authorizing the Board of Landscape Architects to promulgate a legislative rule relating to registration of landscape architects; relating to authorizing the Board of Medicine to promulgate a legislative rule relating to licensing of physicians and podiatric physicians and disciplinary procedures for applicants, licensees, and credential holders; relating to authorizing the Board of Medicine to promulgate a legislative rule relating to relating to licensure, practice requirements, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to collaborative pharmacy practice; relating to authorizing the Board

of Medicine to promulgate a legislative rule relating to prohibiting sexual misconduct by health care practitioners; relating to authorizing the Board of Optometry to promulgate a legislative rule relating to optometric telehealth practice; relating to authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substance Act; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permit; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to inspections; relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Donated Drug Repository Program; relating to authorizing the Psychologists to promulgate a legislative rule relating to code of conduct; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to advanced practice registered nurse licensure requirements; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to continuing education and competence; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to fees for services rendered by the board; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to practitioner requirements for accessing the West Virginia Controlled Substance Monitoring Program database; relating to authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to telehealth practice; requirements; definitions; relating to

authorizing the Secretary of State to promulgate a legislative rule relating to early voting in-person satellite precincts; relating to authorizing the Secretary of State to promulgate a legislative rule relating to the Combined Voter Registration and Driver Licensing Fund; relating to authorizing the Secretary of State to promulgate a legislative rule relating to administrative procedures for the Nonpublic Funding for Election Administration Fund; relating to authorizing the State Treasurer to promulgate a legislative rule relating to enforcement of the Uniform Unclaimed Property Act; relating to authorizing the State Treasurer to promulgate a legislative rule relating to the Hope Scholarship Program; and relating to authorizing the State Treasurer to promulgate a legislative rule relating to Jumpstart Savings Program.”

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 652**), and there were—yeas 78, nays 1, absent and not voting 21, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Barnhart, Bridges, Clark, DeVault, Fehrenbacher, Ferrell, Fluharty, Griffith, W. Hall, Hillenbrand, Honaker, Hornbuckle, Linville, Mallow, Marple, Martin, Mazzocchi, C. Pritt, Pushkin, Shamblin and Skaff.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 361) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 1:06 p.m., on motion of Delegate Householder, the House of Delegates recessed until 2:30 p.m.

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Afternoon Session

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The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 409, Authorizing Department of Commerce to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 653**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Criss, Garcia, Griffith, Jennings, Longanacre, Mallow, Nestor, Reynolds, Skaff and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 409) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 654**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Criss, Garcia, Griffith, Mallow, Nestor, Reynolds and Skaff.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 409) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 422, Requiring public schools to publish curriculum online at beginning of each new school year; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 655**), and there were—yeas 75, nays 21, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Dean, Dittman, Ferrell, Fluharty, Foggin, Garcia, W. Hall, Hansen, Hornbuckle, Kirby, Nestor, E. Pritt, Pushkin, Riley, Rowe, Shamblin, Skaiff, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 422) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 422 - “A Bill to amend and reenact §18-5-27 of the Code of West Virginia, 1931, as amended, all relating to publishing county board curriculum; requiring public schools to post county-adopted curriculum online and establishing deadlines therefore; providing that only students, parents, or guardians have access to online curriculum; defining term; allowing county board to provide access to county-adopted curriculum; and providing that if a public school does not have a website, the information shall be posted on county board website or website authorized by state board.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 656**), and there were—yeas 90, nays 6, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Hornbuckle, Pushkin, Steele, Walker and Young.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 426) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 426 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-6B-4a, relating to regulating, restricting, or banning high-risk technology platforms, services, applications, programs, or products on government networks, devices, and systems; adding legislative findings related to national security threats and threats to critical state government networks and infrastructure, including election systems, posed by untrustworthy and high-risk platforms, services, applications, programs, or products; authorizing the Chief Information Security Officer to identify high-risk platforms, services, applications, programs, and products and to develop statewide standards regulating their use on government networks, devices, and systems; requiring certain government entities to adopt and enforce those standards; recommending the legislative and judicial branches to adopt and

enforce those standards; authorizing the promulgation of legislative and emergency rules to facilitate the purpose of this section; and requiring the Chief Information Security Officer provide an annual report on threats posed by untrustworthy and high-risk platforms, services, applications, programs, or products, and the actions required to mitigate those threats to the Joint Interim Committee on Government Operations.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 443, Directing payment of estate administration fee to State Auditor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 657**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 443) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 658**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 443) takes effect July 1, 2023.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 444, Transferring moneys in WV Future Fund to General Revenue Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 659**), and there were—yeas 87, nays 9, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, Hornbuckle, E. Pritt, Pushkin, Walker, Williams and Young.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 444) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 660**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, E. Pritt, Pushkin, Walker and Young.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 444) takes effect July 1, 2023.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 446, Removing methanol and methanol fuel from definition of special fuel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 661**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 446) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

S. B. 446 - “A Bill to amend and reenact §11-14C-2 of the Code of West Virginia, 1931, as amended, relating to removing methanol and methanol fuel from the definition of special fuel.”

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 662**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Clark and Howell.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 446) takes effect July 1, 2023.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 461, Relating to WV public employees grievance procedure; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 663**), and there were—yeas 78, nays 18, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Dean, Dillon, Fluharty, Foggin, Garcia, Hansen, Hornbuckle, Nestor, E. Pritt, Pushkin, Rowe, Skaiff, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 461) passed.

Com. Sub. for S. B. 469, Providing funding for CPR instruction to high school students; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 664**), and there were—yeas 95, nays 1, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 469) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 665**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 469) takes effect July 1, 2023.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 495, Providing correctional institutions and juvenile facilities video and audio records be confidential; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 666**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 495) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 495 - “A Bill to amend and reenact §15A-4-8a of the Code of West Virginia, 1931, as amended, relating generally to correctional institutions and juvenile facilities; deeming certain video and audio recordings records and reports to be confidential; creating exceptions to confidentiality; requiring court or administrative tribunal orders directing disclosure to contain a provision limiting disclosure to the purposes necessary to the proceeding and prohibiting unauthorized use and publication;

requiring the Commissioner of the Division of Corrections and Rehabilitation to permit the viewing of certain records to licensed attorneys under certain conditions; and defining terms.”

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 667**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith, Mallow and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 495) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 668**), and there were—yeas 35, nays 61, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barnhart, Cannon, Capito, Criss, Espinosa, Forsht, Heckert, Honaker, Hott, Householder, Howell, Jeffries, Jennings, Keaton, Kelly, Linville, Marple, Martin, Maynor, Mazzocchi, McGeehan, Petitto, Phillips, Pinson, C. Pritt, Riley, Rohrbach, Steele, Summers, Toney, Tully, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Foster, Griffith and Mallow.

So, a majority of the members present not having voted in the affirmative, the Speaker declared the bill (S. B. 508) rejected.

Delegate Householder then asked and obtained unanimous consent to return to further consideration of Com. Sub. for S. B. 461.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 461 – “A Bill to amend and reenact §6C-2-1, §6C-2-2, §6C-2-3, §6C-2-4, and §6C-2-6 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Public Employees Grievance Procedure; defining terms; clarifying actions or any matter relating to protected classes are not subject to grievances; providing that Division of Personnel may not be a party in certain circumstances; providing for multiple grievant parties; providing a grievance must be filed within the time limits specified or it may be dismissed; extending certain time limits; providing for grievance dismissal for untimeliness, lack of jurisdiction, or failure to state a claim and appeals of such dismissal; updating default process to include employer; providing the grievance evaluator and the administrative law judge may not hold a motion to dismiss in abeyance while other proceedings take place; clarifying that grievances may be consolidated as long as the initial grievance has not been dismissed; providing that proceedings may be rescheduled for good cause shown; requiring grievant representatives provide the names and work location of employees being represented; requiring that employees provide the name and contact information of his or her representative; directing Grievance Board to make available certain forms; providing that employee annual leave will be charged for work hours used in preparing for and attending the grievance hearing in excess of certain limits; providing for the chief administrator’s resolution of certain disputes and further providing for discretionary recording of conference; limiting annual number of grievances an employee may serve as a representative; providing for conference recordings; requiring grievance to be held in abeyance under certain circumstances; clarifying employee representation is limited by work requirements; requiring grievant to provide copies of

grievance in certain cases; updating appellate procedure from level three decision; and providing for award of costs and attorney fees.”

Com. Sub. for S. B. 516, Relating to requirements for disclosure of donor contributions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 669**), and there were—yeas 73, nays 24, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Nays: Barnhart, Brooks, Ferrell, Fluharty, Garcia, Hansen, Hite, Hornbuckle, Kirby, Nestor, E. Pritt, Pushkin, Reynolds, Ross, Rowe, Shamblin, Skaff, Storch, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Griffith and Mallow.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 516) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 522, Allocating percentage of county excise taxes for funding improvements to election administration; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 670**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Griffith and Mallow.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 522 – “A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to excise taxes on transfers of title to real estate; requiring a certain percentage of certain excise taxes be allocated to the county in which it was collected; providing for distribution of funds from certain excise taxes allocated to the county in which it was received; authorizing the Secretary of State to propose legislative rules establishing standards for election administration, infrastructure, and security; and providing for allocation of funds when certain minimum standards or reserve amounts are met.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 523, Clarifying purpose and use of Economic Development Project Fund; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegate Kirby moved to amend the bill on page 2, section 23a, line 41, after the word “exceed” by striking “\$300” and inserting in lieu thereof “\$50”;

And,

On page 3, section 23a, line 51, after the word “exceed” by striking “\$250” and inserting in lieu thereof “\$50”.

Delegate Hite moved the previous question, which demand was sustained.

On this question, the yeas and nays were taken (**Roll No. 671**), and there were—yeas 29, nays 66, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Barnhart, Cooper, Espinosa, Fehrenbacher, Foggin, Forsht, W. Hall, Hillenbrand, Hite, Hott, Householder,

Jeffries, Keaton, Kelly, Kump, Longanacre, Martin, Nestor, Ridenour, Rohrbach, Shamblin, Summers, Toney, Tully, Walker, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Griffith, A. Hall, Lucas and Mallow.

So, a majority of the members present not having voted in the affirmative, the motion was rejected.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 672**), and there were—yeas 20, nays 73, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Dillon, Foster, A. Hall, Kimble, Kirby, Longanacre, McGeehan, C. Pritt, E. Pritt, Pushkin, Ridenour, Ross and Vance.

Absent and Not Voting: Bridges, Clark, Crouse, Ferrell, Griffith, Hanna and Mallow.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 673**), and there were—yeas 83, nays 14, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks, Coop-Gonzalez, Dean, Dillon, Foster, Kimble, Kirby, Longanacre, McGeehan, C. Pritt, E. Pritt, Ridenour, Ross and Vance.

Absent and Not Voting: Bridges, Griffith and Mallow.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 523) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Delegate Brooks, having voted on the prevailing side, moved that the House of Delegates reconsider the vote on **S. B. 508**.

Delegate Worrell moved that the motion be tabled.

On the question that the motion be tabled, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 674**), and there were—yeas 33, nays 63, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Dean, Ferrell, Fluharty, Garcia, Griffith, W. Hall, Hansen, Hillenbrand, Hite, Hornbuckle, Kirby, Kump, Martin, Miller, Petitto, E. Pritt, Pushkin, Reynolds, Ridenour, Ross, Rowe, Shamblin, Sheedy, Skaff, Smith, Storch, Toney, Walker, Ward, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Mallow, Westfall and Willis.

So, a majority of the members present not having voted in the affirmative, the motion to table was rejected.

During debate on the motion to reconsider, Delegate Fluharty arose to a point of order regarding the remarks of Delegate Steele pertaining to the bill and not the motion.

The Speaker ruled that the rule was not well taken.

On the motion to reconsider the vote on S. B. 508, the yeas and nays, were demanded which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 675**), and there were—yeas 53, nays 37, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Dean, Dillon, Fast, Fluharty, Foggin, Garcia, Gearheart, Griffith, A. Hall, Hansen, Hardy, Hite, Hornbuckle, Horst, Kirby, Kump, Martin, E. Pritt, Pushkin, Reynolds, Ridenour, Ross, Rowe, Sheedy, Skaff, Smith, Statler, Storch, Thorne, Toney, Vance, Walker, Williams, Willis, Worrell and Young.

Absent and Not Voting: Bridges, Ferrell, Jennings, Longanacre, Lucas, Mallow, Marple, Nestor, Shamblin and Westfall.

So, a majority of the members present having voted in the affirmative, the motion to reconsider prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 676**), and there were—yeas 49, nays 41, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Anderson, Burkhammer, Dean, Dillon, Dittman, Fast, Ferrell, Fluharty, Garcia, Gearheart, Griffith, A. Hall, Hansen, Hardy, Hillenbrand, Hite, Holstein, Hornbuckle, Horst, Kirby, Kump, Marple, E. Pritt, Pushkin, Reynolds, Ridenour, Ross, Rowe, Shamblin, Sheedy, Skaff, Smith, Statler, Storch, Thorne, Vance, Walker, Williams, Willis, Worrell and Young.

Absent and Not Voting: Barnhart, Bridges, Chiarelli, Hornby, Jeffries, Longanacre, Mallow, Martin, Nestor and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 508) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 527, Allowing family members of military personnel access to discharge records; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 677**), and there were—yeas 84, nays 1, absent

and not voting 15, with the nays and the absent and not voting being as follows:

Nays: Butler.

Absent and Not Voting: Barnhart, Bridges, Burkhammer, Cooper, Dean, Foster, A. Hall, Hardy, Householder, Kirby, Linville, Mallow, Nestor, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 527) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 678**), and there were—yeas 79, nays 2, absent and not voting 19, with the nays and the absent and not voting being as follows:

Nays: Ridenour and Thorne.

Absent and Not Voting: Bridges, Burkhammer, Cooper, Fehrenbacher, Foster, A. Hall, Hillenbrand, Hite, Householder, Kirby, Kump, Mallow, Nestor, Petitto, E. Pritt, Reynolds, Steele, Warner and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 533) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license

requirements; on third reading, coming up in regular order, with the right to amend, was read reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“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 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, all of 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 is in compliance 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 designating the private outdoor designated area;

(7) The days and hours of operation for the private outdoor designated area which may not be greater than, authorized by §11-16-1 *et seq.* and chapter 60 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.

(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.

(f) Notwithstanding any provision of this Code to the contrary, any person licensed under §11-16-1, *et. seq.* of this Code, shall not be charged any additional license fee by a municipality.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-3. Definitions.

For the purpose of this article, except where the context clearly requires differently:

(1) ‘Brand’ means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled, or otherwise produced, imported, or transshipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner, that is being offered for sale or sold in West Virginia by a distributor who has been appointed in a valid franchise agreement or a valid amendment thereto.

(2) ‘Brewer’ or ‘manufacturer’ means any person manufacturing, otherwise producing, importing, or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer’s license for its nonintoxicating beer or nonintoxicating craft beer.

(3) ‘Brewpub’ means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and

~~guidelines, rules,~~ a portion of which premises is designated for retail sales of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.

(4) ‘Class A retail license’ means a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet, licensed pursuant to §60-1-1 *et seq.* of this code.

(5) ‘Class B retail license’ means a retail license permitting the retail sale of liquor at a mixed retail liquor outlet licensed pursuant to §60-1-1 *et seq.* of this code.

(6) ‘Commissioner’ means the West Virginia Alcohol Beverage Control Administration Commissioner.

(7) ‘Distributor’ means and includes any person jobbing or distributing nonintoxicating beer or nonintoxicating craft beer to retailers at wholesale and whose warehouse and chief place of business ~~shall be~~ is within this state. For purposes 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 §11-16-1 *et seq.* of this code notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

(8) ‘Franchise agreement’ means the written agreement between a brewer and a distributor that is identical as to terms and conditions between the brewer and all its distributors, which ~~agreement~~ has been approved by the commissioner. The franchise agreement binds the parties so that a distributor, appointed by a brewer, may distribute all the brewer’s nonintoxicating beer products, brands, or family of brands imported and offered for sale in West Virginia, including, but not limited to, existing brands, line extensions, and new brands all in the brewer’s assigned territory for the distributor. All brands and line extensions being imported or offered for sale in West Virginia must be listed by the brewer in

the franchise agreement or a written amendment to the franchise agreement. A franchise agreement may be amended by mutual written agreement of the parties as approved by the commissioner with identical terms and conditions for a brewer and all its distributors. Any approved amendment to the franchise agreement becomes a part of the franchise agreement. A brewer and a distributor may mutually agree in writing to cancel a franchise agreement. A distributor terminated by a brewer as provided in this article and the promulgated rules no longer has a valid franchise agreement. If a brewer has reached an agreement to cancel a distributor or has terminated a distributor, then a brewer may appoint a successor distributor who accedes to all the rights of the cancelled or terminated distributor.

(9) ‘Franchise distributor network’ means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands, and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: *Provided*, That a brewer that has acquired the manufacturing, bottling, or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer, as specified in §11-16-21(a)(2) of this code, shall continue to maintain and be bound by the selling brewer’s separate franchise distributor’s network for any of its existing brands, line extensions, and new brands.

(10) ‘Freestanding liquor retail outlet’ means a retail outlet that sells only liquor, wine, beer, nonintoxicating beer, and other alcohol-related products, as defined pursuant to §60-3A-4 of this code.

(11) ‘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 must be capable of being securely sealed. The growler is ~~utilized~~ used by an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. The nonintoxicating beer or nonintoxicating craft beer served and sold in a sealed growler may include ice or water mixed with the

nonintoxicating beer or nonintoxicating craft beer to create a frozen nonintoxicating beer or nonintoxicating craft beer beverage. Any frozen nonintoxicating beer or nonintoxicating craft beer beverage machine used for filling growlers shall be sanitized daily, shall be under the control of the licensee in the secure area, and served to the patron by the licensee from the secure area. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state, and local law. A growler with a broken seal is an open container under federal, state, and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a ~~tamper-resistant~~ tamper-evident seal, security tape, or other material, as approved by the commissioner, placed on or over the growler's opening, which seal, security tape or other material is clearly marked with the date of the secure sealing by the authorized licensee who is selling the growler.

(12) 'Line extension' means any nonintoxicating beer product that is an extension of a brand or family of brands that is labeled, branded, advertised, marketed, promoted, or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated, or otherwise related to a brewer's existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, or other related entities. In determining whether a nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: Name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade design; product codes; advertising promotion; or pricing.

(13) 'Manager' means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of §11-16-1 *et seq.* of this code and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. ~~Such~~ Duties include but are not limited to: Coordinating

staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine, and liquor, as applicable; and managing security staff, security systems, video, and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

(14) ‘Nonintoxicating beer’ means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than 11.9 percent of alcohol by weight, or 15 percent alcohol by volume, whichever is greater. The word ‘liquor’, as used in §60-1-1 *et seq.* of this code, does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures, or preparations included within this definition.

(15) ‘Nonintoxicating beer floor plan extension’ means a temporary one-day extension of an existing Class A licensee’s floor plan to a contiguous, adjoining, and bounded area, such as a parking lot or outdoor area, which shall for the temporary period encompass the licensee’s licensed premises; further the license shall be endorsed or approved by the county or municipality where the license is located; the license shall be in good standing with the commissioner, and further ~~such the~~ temporary event shall cease on or before midnight of the approved temporary one-day event.

(16) ‘Nonintoxicating beer sampling event’ means an event approved by the commissioner for a Class A retail licensee to hold a nonintoxicating beer sampling authorized pursuant to §11-16-11a of this code.

(17) ‘Nonintoxicating beer sampling day’ means any days and hours of the week where Class A retail licensees may sell nonintoxicating beer, pursuant to §11-16-11a and §11-16-18(a)(1) of this code, and ~~is who are~~ approved, in writing, by the commissioner to conduct a nonintoxicating beer sampling event.

(18) ‘Nonintoxicating craft beer’ means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent by volume and not more than 15 percent alcohol by volume or 11.9 percent alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect.

(19) ‘Original container’ means the container used by a resident brewer or brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer or nonintoxicating craft beer for sale at wholesale.

(20) ‘Person’ means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

(21) ‘Private club’ means a license issued pursuant to §60-7-1 *et seq.* of this code.

(22) ‘Resident brewer’ means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia; which may also have multiple manufacturing locations located in West Virginia as set forth in §11-16-9 of the code; and which does not brew or manufacture more than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer annually at all manufacturing locations in the aggregate and does not self-distribute more than 10,000 barrels thereof in the State of West Virginia annually from all manufacturing locations in the aggregate.

(23) ‘Retailer’ means any person selling, serving, or otherwise dispensing nonintoxicating beer and all products regulated by this article, including, but not limited to, malt coolers at his or her established and licensed place of business.

(24) ‘Tax Commissioner’ means the Tax Commissioner of the State of West Virginia or the commissioner’s designee.

§11-16-6. License in one capacity only; no connection between different licensees; when brewer may act as distributor; credit and rebates proscribed; brewer, resident brewer, and brewpub requirements.

(a) A person shall not be licensed in more than one capacity under the terms of this article, and there shall be no connection whatsoever between any retailer, distributor, resident brewer, or brewer, and a person shall be interested, directly or indirectly, through the ownership of corporate stock, membership in a partnership, or in any other way in the business of a retailer, if the person is at the same time interested in the business of a brewer, resident brewer or distributor. A resident brewer may act as distributor in a limited capacity for his or her own product from the resident brewery or place of manufacture or bottling, but a resident brewer, is not permitted to act as a distributor as defined in §11-16-3 of this code: *Provided*, That nothing in this article may prevent a resident brewer from using the services of licensed distributors as specified in this article. A resident brewer or distributor may sell to a patron for personal use and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption. A resident brewer who also has a brewpub license may sell nonintoxicating beer or nonintoxicating craft beer produced by the resident brewer in cans, bottles, or sealed growlers, pursuant to §11-16-6b of this code, for personal consumption off of the brewpub's licensed premises and not for resale.

In order to promote the state's hospitality and tourism industry, as well as promoting economic development within the state by attracting persons licensed in another state as a retailer, distributor, brewer, or manufacturer to relocate and establish business in this state, the commissioner may not consider licenses in other state as a criterion when evaluating applications for licensure in this state, and, the limitations contained in this section shall not apply to licenses in any other state: *Provided*, That any applicant for licensure in this state must be in good standing in all other states and never had a license revoked in any other state in which it is licensed.

(b) It is unlawful for any brewer, resident brewer, manufacturer, or distributor to assist any retailer or for any retailer to accept assistance from any brewer, manufacturer, or distributor, accept any gifts, loans, forbearance of money or property of any kind, nature, or description, or other thing of value, or give any rebates or discounts of any kind whatsoever, except as permitted by rule, or order promulgated by the commissioner in accordance with this article.

(c) Notwithstanding subsections (a) and (b) of this section, a brewpub may offer for retail sale nonintoxicating beer or nonintoxicating craft beer so long as the sale of the nonintoxicating beer or nonintoxicating craft beer is limited to the brewpub's licensed premises, except as provided in §11-16-6b of this code.

(d) A brewer or resident brewer licensed under this section may also be licensed under §60-4-1 *et seq.* of this code: *Provided*, That the holder of the license meets all the requirements for the additional licenses required by the commissioner and pays all fees related to the license: *Provided, however*, That the licensee maintains all the rights and privileges associated with the license.

§11-16-6a. Brewer and resident brewer license to manufacture, sell, and provide complimentary samples.

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of nonintoxicating beer and nonintoxicating craft beer and its industry in this state in order to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed brewer or resident brewer with its principal place of business and manufacture located in this state to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the state's growing brewing industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of nonintoxicating beer.* — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may offer only nonintoxicating beer or nonintoxicating craft beer manufactured by the licensed brewer or resident brewer for retail sale to customers from the brewer's or resident brewer's licensed premises for consumption off of the licensed premises only in the form of kegs, bottles, cans, or growlers for personal consumption and not for resale. A licensed brewer or resident brewer may not sell, give, or furnish nonintoxicating beer for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section.

(c) *Complimentary samples.* — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may only offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer brewed at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. The complimentary samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed 10 complimentary two-ounce samples per patron per day. A licensed brewer or resident brewer providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated.

(d) *Retail sales.* — Every licensed brewer or resident brewer under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable requirements and penalties in this article. In the interest of promoting tourism throughout the state, every licensed brewer or resident brewer manufacturing nonintoxicating beer or nonintoxicating craft beer in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the brewer or

resident brewer's sealed nonintoxicating beer or nonintoxicating craft beer. At least five days prior to an approved private fair and festival, an authorized brewer or resident brewer shall provide a copy of a written agreement to sell only nonintoxicating beer or nonintoxicating craft beer manufactured by the brewer or resident brewer at the private fair and festival's licensed premises. If approved, an authorized brewer or resident brewer may conduct 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 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 complimentary samples 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 ~~must~~ 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 ~~must~~ shall sanitize, fill, securely seal, and label any growler prior to its sale. A licensed brewer or resident brewer under this section may only offer for retail sale growlers no larger than 128 fluid ounces of nonintoxicating beer or nonintoxicating craft beer manufactured by

the licensed brewer or resident brewer for personal consumption off of the licensed premises and not for resale. A licensed brewer or resident brewer under this section may refill a growler subject to the requirements of this section. A licensed brewer or resident brewer shall visually inspect any growler before filling or refilling it. A licensed brewer or resident brewer may not fill or refill any growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(h) *Growler labeling.* — A licensed brewer or resident brewer under this section selling growlers shall affix a conspicuous label on all sold and securely sealed growlers listing the name of the licensee selling the growler, the brand of the nonintoxicating beer or nonintoxicating craft beer in the growler, the alcohol content by volume of the nonintoxicating beer or nonintoxicating craft beer in the growler, and the date the growler was filled or refilled, and, further, all labeling on the growler shall be consistent with all federal labeling and warning requirements.

(i) *Growler sanitation.* — A licensed brewer or resident brewer authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under §11-16-23 of this code.

(j) *Fee.* — There is no additional fee for a licensed brewer or resident brewer authorized under this section to sell growlers.

(k) *Limitations on licensees.* — To be authorized under this section, a licensed brewer or resident brewer may not produce more than 25,000 barrels per calendar year at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. No more than one brewer or resident brewer license may be issued to a single person or entity and no person may hold both a brewer and a resident brewer license. A licensed brewer or resident brewer under this section may only conduct

tours, give complimentary samples, and sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. A licensed brewer or resident brewer authorized under this section shall be subject to the applicable penalties under §11-16-23 of this code for violations of this section.

(1) (1) *Contract Brewing Services Agreements.* - A licensed brewer or resident brewer may enter into contract brewing services agreements with another licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia for purposes of sharing brewing equipment or facilities as part of the manufacture of nonintoxicating beer or nonintoxicating craft beer. Any such contract brewing services agreement shall be provided to the West Virginia Alcohol Beverage and Control Administration and set forth the following terms and conditions:

(A) The licensed brewer or resident brewer serving as the brewer of record and retaining ownership, rights, title, and interest in the nonintoxicating beer or nonintoxicating craft beer recipe and brand;

(B) The licensed brewer or resident brewer who will be responsible for executing any brew of nonintoxicating beer or nonintoxicating craft beer;

(C) The location of the facilities to be utilized for the manufacture of the nonintoxicating beer or nonintoxicating craft beer;

(D) Specifications regarding the packaging of all nonintoxicating beer or nonintoxicating craft beer manufactured under the contract brewing services agreement; and

(E) The manner of payment of any and all federal and state excise taxes associated with the manufactured nonintoxicating beer or nonintoxicating craft beer.

(2) The licensed brewer or resident brewer serving as the brewer of record is responsible for the transportation of the finished and packaged product to their licensed facility, where it must come

to rest and be tax determined. Any nonintoxicating beer or nonintoxicating craft beer manufactured pursuant to a contract brewing services 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, ~~is authorized to~~ may propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third-party; requirements; limitations; third-party license fee; retail transportation permit; and requirements.

(a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery

services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program. The annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is \$200 per third-party entity, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code, and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of prepared food, or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third-party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, ~~shall~~ may not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) "Prepared food or a meal" shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer;

~~(4) An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and~~

(5) (4) A third-party delivery licensee may not have a pecuniary interest in a Class A retail dealer, as set forth in this article, therefore a third-party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third-party licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third-party delivery licensee to the person purchasing may not be greater than \$20 per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person. For any third-party licensee also licensed for wine growler delivery as set forth in §60-8-6c of this code, or craft cocktail growler delivery as set forth in §60-7-8f of this code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler ~~shall~~ may not exceed \$5.

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third-party delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class A retail dealer or third-party delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;

(3) The Class A retail dealer or third-party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer

pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit;

(4) A Class A retail dealer or third-party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county or contiguous counties where the Class A retail dealer is located;

(5) A Class A retail dealer or third-party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class A retail dealer or third-party delivery licensee shall pay and account for all sales and municipal taxes;

(6) A Class A retail dealer or third-party delivery licensee may not deliver prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

(7) A Class A retail dealer or third-party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not for resale; and

(8) A Class A retail dealer or third-party delivery licensee ~~shall~~ may not deliver and leave prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing

person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class A retail dealer or third-party delivery licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer ~~must~~ shall be issued a retail transportation permit per §11-16-6d(g) of this code.

(g) Retail Transportation Permit. —

(1) A Class A retail dealer or third-party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class A retail dealer or a third-party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the Class A retail dealer or third-party delivery licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) Enforcement. —

(1) A Class A retail dealer or third-party delivery licensee is responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple

Class A retail dealers or licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class A retail dealer or third-party delivery licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class B retail dealer or a third-party; requirements; limitations; third-party license fee; retail transportation permit; and requirements.

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a telephone, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through a telephone order, a mobile ordering application, or web-based software program. The nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is \$200 per third-party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and nonintoxicating beer or nonintoxicating craft beer by the licensee or third-party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, ~~shall~~ may not be visibly or noticeably intoxicated at the time of delivery, and meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer; and

~~(4) An order, sale, or delivery consisting of food and any combination of sealed nonintoxicating beer or nonintoxicating craft beer bottles, cans, or growlers shall not be in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and~~

(5) (4) A third-party delivery licensee ~~shall~~ may not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third-party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third-party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third-party delivery licensee to the purchasing person may not be greater than \$20 per delivery order. For any third-party licensee also licensed for wine delivery, as set forth in §60-8-6f of this code, the total convenience fee for any order, sale, and delivery of sealed wine may not exceed \$20.

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. A Class B retail dealer and a third-party licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class B retail dealer and a third-party licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and submit the certification of the training to the commissioner;

(3) The Class B retail dealer or third-party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of the licensure;

(4) A Class B retail dealer and a third-party licensee may deliver food and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail dealer is located;

(5) A Class B retail dealer and a third-party licensee may only deliver food and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class B retail dealer and a third-party licensee shall pay and account for all sales and municipal taxes;

(6) A Class B retail dealer and a third-party licensee may not deliver food and nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

(7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are only for personal use, and not for resale; and

(8) A Class B retail dealer and a third-party licensee shall not deliver and leave food and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements.* —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the food and nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age verification upon delivery with the delivery person's visual review and age verification;

(2) Any mobile ordering application or web-based software used must create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class B retail dealer and a third-party licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

(g) Retail Transportation Permit. —

(1) A Class B retail dealer and a third-party licensee shall obtain and maintain a retail transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class B retail dealer or a third-party licensee shall apply for a permit and provide vehicle and driver information, required by the commissioner. Upon any change in vehicles or drivers, Class B retail dealer and a third-party licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) Enforcement. —

(1) The Class B retail dealer and a third-party licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class B retail dealers or third-party licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class B

retail dealer or third-party licensee, their employees, or independent contractors.

(3) It is a violation for any Class B retail dealer or third-party licensee, their employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-8. Form of application for license; fee and bond; refusal of license.

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of the residency, and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, the person, or in the case of a firm, partnership, limited partnership, limited liability company, association, or trust, the members, officers, trustees, or other persons in active control of the activities of the limited liability company, association, or trust relating to the license, shall include the residency for these persons on the application. All applicants and licensees shall include a manager on the applicant's license application, or a licensee's renewal application, who shall meet all other requirements of licensure. The applicant shall be a United States citizen or a naturalized citizen, pass a background investigation, be at least 21 years of age, be a suitable applicant, and meet other requirements, all as set forth in this article and the rules promulgated ~~thereunder, hereunder,~~ all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain licensure, a

licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees, or other persons in active control of the activities of the trust relating to the license, shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e) of this code and shall further state, under oath, the names, addresses, Social Security numbers, and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust shall state that the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number, and birth date;

(2) The place of birth of the applicant, that he or she is a citizen of the United States and of good moral character and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application shall state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States and a person of good moral character. If the applicant is a firm, association, limited liability company, partnership, limited partnership, trust, or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries, or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary, or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a naturalized citizen, when and where naturalized, each of whom shall qualify and sign the application;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the premises or building in which the applicant proposes to do business conforms to all applicable laws of health, fire, and zoning regulations and is a safe and proper place or building; is not within 200 feet of a school or church measured from front door-to-front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition does not apply to a college, university, or church that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within 200 feet of the college, university, or church;

(6) That the applicant is not incarcerated and has not, in the previous five years before application: (A) Been convicted of a felony; (B) been convicted of a crime involving fraud, dishonesty, or deceit; or (C) been convicted of a felony for violating alcohol-related distribution laws;

(7) That the applicant is the only person in any manner pecuniarily interested in the business to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust instrument to the commissioner for his or her review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner

pursuant to this section is confidential, ~~and~~ is not a public record, and is not available for release pursuant to the West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance of a license and, if any applicant fails to qualify, the commissioner shall refuse to issue the license. In addition to the information furnished in any application, the commissioner may make any additional and independent investigation of each applicant, manager, and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, shall be submitted with all true and correct information. For the purpose of conducting the independent investigation, the commissioner may withhold the granting or refusal to grant the license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it appears that the applicant and manager meet the requirements in the code and the rules, including, but not limited to, ~~has~~ have not been convicted of a felony in the previous five years before application, ~~has~~ have not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, ~~has~~ have not been convicted of a felony for violating any alcohol-related distribution laws; ~~having made no~~ have not made any false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in the application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner is of the opinion:

(1) That the applicant or manager has, within the previous five years before application: (A) Been convicted of a felony within the previous five years; (B) been convicted of a crime involving fraud, dishonesty, or deceit; or (C) been convicted of a felony for

violating any state or federal alcohol-related distribution laws; and
(D) that the applicant or the manager is not a suitable applicant;

(2) That the place to be occupied by the applicant is not a suitable place; or is within 200 feet of any school or church measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee so long as it is continuously so occupied. The prohibition does not apply to a college, university, or church that has notified the commissioner, in writing, that it has no objection to the location of any such place within 200 feet;

(3) That ~~the~~ any manager, owner, employee, or other person ~~is~~ in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or

(4) That the license should not be issued for reason of conduct declared to be unlawful by this article.

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

(a) All retail dealers, distributors, brewpubs, brewers, and resident brewers of nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active license as required by this article. The license period begins on July 1 of each year and ends on June 30 of the following year. If the license is granted for a shorter period, then the license fee shall be computed semiannually in proportion to the remainder of the fiscal year: *Provided*, That if a licensee fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, then an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or refunded, prior to the processing of any renewal application and applicable full year annual license fee; and furthermore, a licensee who continues to operate after the expiration of its license is subject to all fines, penalties, and sanctions available in §11-16-23 of this code, all as determined by the commissioner.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes: Class A and Class B.

(A) For a Class A retail dealer, the license fee is \$150 for each place of business; the license fee for social, fraternal, or private clubs not operating for profit, and which have been in continuous operation for two years or more immediately preceding the date of application, is \$150: *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of \$10 for each dining, club, or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club, or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer at retail, as licensed, for consumption on the licensed premises or off the licensed premises. Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer for consumption off the licensed premises when it is in a sealed original container and sold for personal use, and not for resale. Class A licensees shall provide prepared food or meals along with sealed nonintoxicating beer or nonintoxicating craft beer in the original container or in a sealed growler as set forth for sales and service in §11-16-6d of this code, to a purchasing person who is in-person or in-vehicle picking up prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders-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.

(B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans, or other sealed containers only, and only for consumption off the licensed premises. A Class B retailer may sell to a purchasing person, for personal use, and not for resale, quantities of draught beer ~~in~~ in

original containers that are no larger in size than one-half barrel for off-premises consumption. The commissioner may only issue a Class B license to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and includes 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. Caterers or party supply stores shall purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(C) A Class A retail dealer may contract, purchase, or develop a mobile ordering application or web-based software program to permit the ordering and purchase of nonintoxicating beer or nonintoxicating craft beer, as authorized by the licensee's license. The nonintoxicating beer or nonintoxicating craft beer shall be in a sealed original container or a sealed growler and meet the requirements of §11-16-6d of this code.

(2) For a distributor, the license fee is \$1,000 for each place of business.

(3) For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is ~~\$500~~ \$250 for each place of manufacture, and no more than three places of manufacture are permitted for licensure;

(B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture, and no more than five places of manufacture are permitted for licensure;

(C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,500 for each place of manufacture.

(D) A brewer or resident brewer licensed under paragraph (A) or (B) of this subdivision shall receive one license for use at all places of manufacture; each place of manufacture shall meet all licensing requirements in this article and the rules; and all places of manufacture shall be noted on the one brewer or resident brewer license in compliance with §11-16-5 and §11-16-6a(k) of this code.

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections (c), (d), and (e) of this section: *Provided*, That a brewer whose principal place of business or manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be subject to the variable license fees of subdivision (3), subsection (b) of this section and the requirements set out in subsections (c), (d), and (e) of this section subject to investigation and approval by the commissioner as to brewer requirements.

(5) For a brewpub, the license fee is \$500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of nonintoxicating beer or nonintoxicating craft beer barrels and gallons it may produce during the year based upon the production capacity of the brewer's or resident brewer's manufacturing facilities and the prior year's production and sales volume of nonintoxicating beer or nonintoxicating craft beer.

(d) On or before July 15 of each year, every brewer, or resident brewer who is granted a license shall file a final report, on a form provided by the commissioner, that is dated as of June 30 of that year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in barrels and gallons produced at its

principal place of business and other sites of manufacture during the prior year.

(e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with the application or renewal application for a brewer's or resident brewer's license for that period, then the brewer or resident brewer shall include a remittance for the balance of the license fee pursuant to this section that would be required for the final, higher level of production.

(f) Any brewer or resident brewer failing to file the reports required in subsections (c) and (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

(g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a nonintoxicating beer floor plan extension is \$50, and the fee may not be prorated or refunded. A licensee shall submit an application, certification that the event meets certain requirements in this code and rules, and any other information required by the commissioner, at least 15 days prior to the event, all as determined by the commissioner.

(h) Notwithstanding subsections (a) and (b) of this section, a Class A retail dealer, in good standing with the commissioner, may apply, on a form provided by the commissioner, to sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer for on-premises consumption in an outdoor dining area or outdoor street dining area, as authorized by any municipal government or county commission in the which the licensee operates. The Class A retail dealer shall submit to the municipal government or county commission, for approval, a revised floorplan and a request to sell and serve nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved outdoor area. For private outdoor street dining, or private 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 with right of ingress and egress. For purposes of this section, "close proximity" means an available area within 150 feet of the Class A retail dealer's licensed premises. A Class A retail dealer may operate a nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining in conjunction with a temporary private outdoor dining or temporary private outdoor street dining area set forth in §60-7-8d of this code and temporary private wine outdoor dining or temporary private wine outdoor street dining set forth in §60-8-32a of this code.

(i) For purposes of this article, "nonintoxicating beer or nonintoxicating craft beer outdoor dining and nonintoxicating beer or nonintoxicating craft beer outdoor street dining" includes 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.

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 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 shall submit a written proposal to the

commissioner informing the Commissioner that the Class A 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 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 from the commissioner.

(d) The complimentary liquor samples on any sampling day shall not exceed:

(1) ~~One~~ Three separate and individual ~~sample-samples~~ serving per customer verified to be 21 years of age or older; and

(2) ~~One ounce~~ One and one-half ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed one and one-half ounces.

(e) Servers at the liquor sampling event shall:

- (1) Be employees of the Class A 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; 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;

§60-3A-8. Retail license application requirements; retail licensee qualifications.

(a) Prior to or simultaneously with the submission of a bid for a retail license or the payment of a purchase option for a Class A retail license, each applicant shall file an application with the commissioner, stating under oath, the following:

(1) If the applicant is an individual, his or her name and residence address;

(2) If the applicant is other than an individual, the name and business address of the applicant; the state of its incorporation or organization; the names and residence addresses of each executive officer and other principal officer, partner, or member of the entity; a copy of the entity's charter or other agreement under which the entity operates; the names and residence addresses of any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant; and all applicants and licensees must list a manager on the applicant's license application, or a licensee's renewal application, ~~and further that the~~ The manager shall meet all other requirements of licensure,

including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, being a suitable applicant, and being of good moral character, and meet other requirements, all as set forth in the code and the legislative rules, in order for the manager to be able to meet and conduct any regulatory matters, including, but not limited to, licensure or enforcement matters related to the applicant or licensee all in the interest of protecting public health and safety. In order to maintain active licensure, any change by a licensee in any manager listed on an application must be made immediately to the commissioner, in order to verify that the new manager meets licensure requirements;

(3) That the applicant and manager have not: (A) Been convicted in this state or any other state of any felony in the five years preceding the date of application; or (B) been convicted of any other crime involving fraud, dishonesty, or deceit in the five years preceding the date of application; or (C) been convicted of any felony in this or any other state court or any federal court for a violation of state or federal alcohol-related distribution laws; ~~and~~ ~~if~~ If the applicant is other than an individual, that none of its executive officers, other principal officers, partners, or members, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been convicted; and

(4) That the applicant and the manager, each is a United States citizen of good moral character and, if a naturalized citizen, when and where naturalized; and, if a corporation organized and authorized to do business under the laws of this state, when and where incorporated, with the name and address of each officer; that each officer is a citizen of the United States and a person of good moral character; and if a firm, association, partnership, or limited partnership, that each member is a citizen of the United States and, if a naturalized citizen, when and where naturalized, each of whom must sign the application.

(b) An applicant and manager shall provide the commissioner any additional information requested by the commissioner

including, but not limited to, authorization to conduct a criminal background and credit records check.

(c) Whenever a change occurs in any information provided to the commissioner, the change shall immediately be reported to the commissioner in the same manner as originally provided.

(d) The commissioner shall disqualify each bid submitted by an applicant under §60-3A-10 of this code and ~~no~~ an applicant shall not be issued or eligible to hold a retail license under this article, if: the applicant or any executive:

(1) ~~The applicant has~~ Has been, within the five years preceding the date of application: (A) Convicted in this state of any felony; or (B) convicted of a crime involving fraud, dishonesty, or deceit; or (C) convicted of any felony in this or any other state court or any federal court for a violation of state or federal alcohol-~~related distribution~~ laws; or

(2) Any executive officer or other principal officer, partner, or member of the applicant, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been, within the five years preceding the date of application: (A) Convicted in this state of any felony; or (B) convicted of a crime involving fraud, dishonesty, or deceit; or (C) convicted of any felony in this or any other state court or any federal court for a violation of state or federal alcohol-~~related distribution~~ laws.

(e) The commissioner shall not issue a retail license to an applicant which does not hold a license issued pursuant to federal law to sell liquor at wholesale.

ARTICLE 4. LICENSES.

§60-4-3a. Distillery, ~~and~~ mini-distillery, and micro-distillery license to manufacture and sell.

(a) *Sales of liquor.* — An operator of a distillery, mini-distillery, or micro-distillery may offer liquor for retail sale to customers from the distillery, mini-distillery, or micro-distillery for

consumption off premises only. Except for complimentary samples offered pursuant to §60-6-1 of this code, customers may not consume any liquor on the premises of the distillery, mini-distillery, or micro-distillery and except for a distillery, mini-distillery, or micro-distillery that obtains a private manufacturer club license set forth in §60-7-1 *et seq.* of this code, and a Class A retail dealer license set forth in §11-16-1 *et seq.* of the code: *Provided*, That a licensed distillery, mini-distillery, or micro-distillery may offer complimentary samples of alcoholic liquors as authorized by this subsection when alcoholic liquors are manufactured by that licensed distillery, mini-distillery, or micro-distillery for consumption on the licensed premises. Notwithstanding any other provision of law to the contrary, a licensed distillery, mini-distillery, or micro-distillery may sell, furnish, and serve alcoholic liquors when licensed accordingly beginning at 6:00 a.m. unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) *Retail off-premises consumption sales.* — Every licensed distillery, mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq.* and §60-4-1 *et seq.* of this code, applicable to liquor retailers and distillers. In the interest of promoting tourism throughout the state, every licensed distillery, mini-distillery, or micro-distillery manufacturing liquor in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales 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 off-premises consumption sales of their 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. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide complimentary samples to patrons who are 21 years of age and older and who are not intoxicated, not to exceed three separate West Virginia product brands one fluid ounce samples per patron, per day.

(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. 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 ~~sell more than 3,000 gallons of product at the distillery, mini-distillery, or micro-distillery location during the initial 24 month period of licensure. The distillery, mini-distillery, or micro-distillery may increase sales at the distillery, mini-~~

~~distillery, micro-distillery location by 2,000 gallons following the initial 24 month period of licensure and may increase sales at the distillery, mini-distillery, or micro-distillery location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year of total sales at the distillery, mini-distillery, or micro-distillery location. No A licensed mini-distillery may produce more than 50,000 gallons per calendar year, at the mini-distillery location. A licensed micro-distillery may not produce more than 10,000 gallons per calendar year at the micro-distillery location.~~ The commissioner may issue more than one distillery, ~~or~~ 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.

§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 off the premises only. Customers may consume wine on the premises when an operator of a winery or farm winery offers complimentary samples pursuant to §60-6-1 of this code, the winery or farm winery is licensed as a private wine restaurant, or the winery or farm winery is licensed as a private manufacturer club. Customers may not consume any wine on the licensed premises of the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, unless the winery, farm winery, or farm entity has obtained a multi-capacity winery or farm winery license: *Provided*, That under this subsection, a licensed winery or farm winery may offer complimentary samples of wine

manufactured by that licensed winery or farm winery for consumption on the premises only on Sundays beginning at 6:00 a.m. in any county in which the same has been approved as provided in §7-1-3ss of this code. Notwithstanding any other provision of law to the contrary, a licensed winery or farm winery may sell, serve, and furnish wine, for on-premises consumption when licensed accordingly, beginning at 6:00 a.m., and for off-premises consumption beginning at 6:00 a.m. on any day of the week, unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) Complimentary samples allowed by the provisions of this section may not exceed two fluid ounces and no more than three samples may be given to a patron in any one day.

(c) Complimentary samples may be provided only for on-premises consumption.

(d) A winery, farm winery, or farm entity, pursuant to §60-1-5c of this code, may offer for retail sale from their licensed premises sealed original container bottles of wine for off-premises consumption only.

(e) 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 may offer wine by the drink or glass in a private wine restaurant located on the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

(f) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers, wineries, and suppliers when properly licensed in such capacities.

(g) (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) ~~No~~ A liter tax shall not be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of the wine is subject to the liter tax.

(5) This section shall not be interpreted to authorize a purchase for resale exemption in contravention of §11-15-9a of this code.

(h) A winery or farm winery may advertise a particular brand or brands of wine produced by it. The price of the wine is subject to federal requirements or restrictions.

(i) A winery or farm winery shall maintain separate winery or farm winery supplier, retailer, and direct shipper licenses when acting in one or more of those capacities and shall pay all associated license fees, unless the winery or farm winery holds a license issued pursuant to the provisions of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate licenses or a multi-capacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code; private wine restaurant; and 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 ~~the~~ this code. All wineries ~~must~~ shall use a distributor

to distribute and sell their wine in the state, except for farm wineries. Wineries or farm wineries may enter into alternating wine proprietorship agreements, pursuant to §60-1-5c of this code.

(j) The owners of a licensed winery or farm winery may operate a distillery, mini-distillery, or micro-distillery, brewery, or as a resident brewer, as otherwise specified in the code.

(k) For purposes of this section, terms have the same meaning as provided in §8-13-7 of this code.

(l) *Building code and tax classification.* — Notwithstanding any provision of this code to the contrary, the mere addition of a winery or farm winery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

(m) In the interest of promoting tourism throughout the state, every licensed winery or farm winery manufacturing wine in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the winery or farm winery's sealed wine. At least five days prior to an approved private fair and festival, an authorized winery or farm winery shall provide a copy of a written agreement to sell only wine manufactured by the licensed winery or farm winery at the private fair and festival's licensed premises. If approved, an authorized licensed winery or farm winery may conduct off-premises consumption sales of their 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' 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 or farm winery may provide complimentary samples to patrons who are 21 years of age and older and who are not intoxicated in the amounts set forth in subsection (b).

ARTICLE 7. LICENSES TO PRIVATE CLUBS.**§60-7-2. Definitions; authorizations; requirements for certain licenses.**

Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Applicant" means a private club applying for a license under the provisions of this article.

(2) "Code" means the official Code of West Virginia, 1931, as amended.

(3) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

(4) "Licensee" means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

(5) "Private club" means any corporation or unincorporated association which either:

(A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which ~~club~~ maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

(B) Is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly-elected or approved dues-paying members in good standing of the

corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which ~~club~~ maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

(C) Is organized and operated for legitimate purposes which has at least 100 duly- elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club are admitted only duly- elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or

(D) Is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park, or at any airport, in which building or premises a club has been established, to which club are admitted only duly-elected and approved dues-paying members in good standing and their guests while in the company of a member and to which ~~club~~ 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. ~~The where~~ the applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, either: (A) In the icing, syrup, drizzle, or some other topping; (B) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (C) the alcohol can be added by the purchaser

from an infusion packet containing alcohol no greater than 10 milliliters. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on or off-premises consumption. ~~This~~ The applicant or licensee may sell the baked goods with alcohol added as authorized for on and off-premises consumption. Further, the applicant or licensee shall ~~meet the criteria set forth in this subdivision which:~~

(i) ~~Has~~ Have at least 50 members;

(ii) ~~Operates~~ 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) ~~Maintains,~~ 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) ~~Uses~~ 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; ~~and a~~ 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~~license 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 ~~utilizing~~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 ~~meet the criteria set forth in this subdivision which:~~

(A) ~~Has~~ Have at least 50 members;

(B) ~~Operates~~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) ~~Maintains~~Maintain, at any one time, ~~\$500~~ not less than a food inventory capable of being prepared in the private club bar's kitchen or ~~has~~ 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) ~~Uses~~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) ~~Meets~~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 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, ~~\$500~~ 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; ~~and if~~ 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—license~~, or licensed private manufacturer’s club ~~licensee—license~~ 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 ~~utilizing~~ 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 ~~meet the criteria set forth in this subdivision which:~~

(A) ~~Has~~Have at least 10 members;

(B) ~~Operates~~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) ~~Maintains,~~Maintain, at any one time, ~~\$500~~ 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) ~~Shall be~~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, ~~and further each~~ 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) ~~Provides~~Provide the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to subsection (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

(F) ~~Requires~~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) ~~Requires~~ 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) ~~Requires~~ 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 ~~utilize~~ 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) ~~Uses~~ 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) ~~Obtains~~ Obtain all permits required by §60-6-12 of this code; and

(N) ~~Meets~~ Meet and ~~is~~ be subject to all other applicable private club requirements.

(11) 'Private club restaurant' means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled with the restaurant, seating requirements for members and guests shall be met by 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, ~~\$1,000~~ of fresh food ~~inventory~~ 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 complimentary samples, and may offer space as a conference center or for meetings;

(C) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week: Provided, That a licensee required by the provisions of this code to serve food on premises in order to lawfully serve alcoholic liquors, beer, 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, ~~\$500 of~~ fresh food inventory capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(E) Owns or leases, controls, operates, and uses ~~acreage amounting to at least one acre~~ 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 ~~has~~ 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 license 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, ~~\$2,500 of fresh food inventory~~ capable of being prepared in the private hotel's full kitchen. ~~And in~~ 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 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, ~~and~~ 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, ~~\$5,000~~ of fresh food inventory 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 throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises;

(G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(H) Uses an age verification system approved by the commissioner;

(I) Meets and is subject to all other private club requirements;

(J) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery; and

(K) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml with any combination of such liquor bottles not exceeding one and a half liters; and (iv) any combination of canned or packaged food valued at least \$100. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

(16) 'Private golf club' means an applicant for a private club or licensed private club licensee ~~meeting the criteria set forth in this subdivision~~ 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 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 ~~meeting the criteria set forth in this subdivision~~ 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 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 ~~and~~ 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 and what 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 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 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 ~~closed-air~~ 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 ~~and 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 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 ~~closed-air~~ 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 ~~and~~ 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, ~~and~~ 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 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, 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, ~~and all~~ All businesses that are members of the association ~~have agreed~~ shall agree 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, 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~~serve freshly prepared food at least 15 hours per week;

(C) Have one or more members operating who maintain, at any one time, ~~\$1,000 of fresh food inventory~~ capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen; ~~and in~~ 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 ~~may engage~~ 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 ~~acreage amounting to at least two contiguous acres of bounded or fenced real property~~ 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 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, ~~and 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 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 ~~and~~ 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, ~~\$1,000 of fresh food inventory~~ 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 as noted above, where parties reserve the coliseum or center venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and be capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending events at the private coliseum or center;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private coliseum or center's floorplan and could be used for contracted-for events, as noted above, or a private fair and festival, as authorized by the commissioner per dual licensing requirements as set forth in §60-7-2a of this code;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private coliseum or center's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on private coliseum or center's licensed premises;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

(25) 'Private food court' means an applicant who qualifies for a private club restaurant or licensed private club restaurant licensee that operates in a facility within a licensed premises with one licensed floorplan that includes an association of other inter-connected licensed private club restaurants or unlicensed restaurants that operate legally without alcohol sales, where all businesses that are licensed members of the association have

agreed in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private food court, and further the applicant shall:

(A) Have at least 100 members;

(B) Have at least one member of its association who qualifies for a private club restaurant containing a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and be capable of serving freshly prepared food at least 15 hours per week in the private food court;

(C) Have at least one member of its association who qualifies for a private club restaurant who maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Have an association that owns or leases, controls, operates, and uses a facility that meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its licensed premises;

(E) Have an association that lists in the application for licensure the entire facility and any inter-connected and adjoining structures on the private food court's floorplan which would compromise the licensed premises, and which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure while on the private food court's licensed premises and as noted on the private food court's licensed floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(G) Have at least one separate and unrelated business applying for the license and certifying that all licensed businesses in the association have agreed to the liability responsibility associated with a private food court license;

(H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private food court;

(J) Provide a copy of a written agreement between all the vendors of the association that is executed by all businesses stating that each licensed vendor is jointly and severally liable for any violations of this chapter committed on the licensed premises;

(K) Provide a security plan indicating all businesses who will be selling and serving alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated, and a plan to provide for the public health and safety of members, patrons, and guests;

(L) Use an age verification system approved by the commissioner; and

(M) Meet and be subject to all other private club requirements.

The Department 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.

§60-7-2a. Dual licensing permitted; conditions.

(a) ~~Any licensee defined in §60-7-2 of this code is authorized to apply for~~ 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 ~~and hold additional licenses for the purpose of holding events, such as fairs and festivals, and creating~~ create ~~tourism opportunities that will show ease businesses 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 an~~ a special event for a private fair and festival licensee on the licensee's licensed premises if the licensee is ~~both licensees are in good standing with the commissioner and the licensee submits~~ submit ~~to the commissioner its~~ the temporary floorplan revisions of the licensed venue 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 ~~where the licensee has control of the space that the private coliseum or center maintains control of its licensed premises, but for the a set contracted rental time period, where the space~~ The private fair and festival licensee shall safely ~~accounts-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 venue's private fair and festival's temporary floorplan during the set time period as stated in the contract 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 and nonintoxicating craft beer, and wine throughout the private fair and festival's licensed premises during this dually licensed temporary special event: Provided, That the venue 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—~~(3)—~~sufficient building facilities for the expected number of members and guests ~~expected to attend~~ attending the event;

(3) Comply with all other requirements of its license in this article; and

~~(3)(4) otherwise be in compliance~~ Comply with health, fire, safety, and zoning requirements.

~~(c) A licensee defined in §60-7-2 of this code may not be limited or restricted in any way as to the number of events that may be held on the premises so long as the licensee continues to operate its primary business in good standing with the Commissioner. There is no limit on the number of private fair and festivals that may be held at a private coliseum or center.~~

§60-7-6. Annual license fee; partial fee; and reactivation fee.

(a) The annual license fee for a license issued under the provisions of this article to a fraternal or veterans' organization or a nonprofit social club is \$750.

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section is \$1,000 if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club restaurant, private hotel, a private food court as defined in §60-7-2 of this code or private resort hotel to be licensed as a private caterer as defined in §60-7-2 of this code; \$500 if the private club is a private bakery; \$1,500 if the private club is

a private wedding venue or barn or a private cigar shop; \$2,000 if the private club is a private nine-hole golf course, private farmers market, private food truck, private college sports stadium, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; \$2,500 if the private club bar or private club restaurant has 1,000 or more members; and \$2,000 if the private club is a private hotel with three or fewer designated areas, ~~or a private golf club as defined in §60-7-2 of this code, a private coliseum or center as defined in §60-7-2 of this code.~~ and further, if If the private club is a private resort hotel as defined in §60-7-2 of this code, the private resort hotel may designate areas within the licensed premises for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas is \$7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas is \$12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas ~~shall be~~ is \$17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas is \$22,500. A private resort hotel that obtained the license and paid the \$22,500 annual license fee may, upon application to and approval of the commissioner, designate additional areas for a period not to exceed seven days for an additional fee of \$150 per day, per designated area.

(c) The fee for any license issued following January 1 of any year that expires on June 30 of that year is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional \$150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is

subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

(e) The commissioner shall pay the fees to the State Treasurer for deposit into the General Revenue Fund of the state.

(f) The Legislature finds that the hospitality industry has been particularly damaged by the COVID-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article. Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows;

(1) License fees for the license period beginning July 1, 2021, shall be reduced to one third of the rate set forth in subsections (a) and (b) of this section;

(2) License fees for the license period beginning July 1, 2022, shall be two thirds of the rate set forth in subsections (a) and (b) of this section; and

(3) License fees for the license period beginning July 1, 2023, and beyond, shall be as set forth in subsections (a) and (b) of this section.

§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~~continued a special license designated Class S2 private fair and festival license for the retail sale of ~~liquor, wine~~ alcoholic liquors and nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair and festival or other event is located;

(2) ~~Shall make~~ Make application with the ~~commission~~ commissioner at least 15 days ~~pursuant~~ 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 ~~must~~ shall be purchased from ~~the licensed distributor~~ distributors that services 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. ~~Sales of~~ Scaled 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. are ~~purchased from the licensed distributor that services the area in which the private fair, festival, or other event is being held and such licensed distributor~~ 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 such 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 prior to the start of the private fair and festival must meet the requirements of §11-16-6a(d) of this code. s, or other event 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, winery, 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. Sales of sealed containers of wine or hard cider may be sold for off-premises consumption if the wine or hard cider is purchased from a licensed distributor 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 that 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. and the licensed distributor, 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 or other event 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. Sales of sealed containers of liquor may be sold for off-premises consumption if the liquor is purchased

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. from the licensed retail liquor outlet in the market zone or contiguous market zone where the private fair, festival, or other event is occurring and the licensed retail liquor outlet. An authorized licensed distillery, mini-distillery, or micro-distillery who agrees to offer such 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 ~~utilize~~ use bona fide employees, ~~or~~ volunteers or in limited circumstances licensed representatives to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, ~~or~~ liquor, or hard cider.

(h) Licensed representatives of a 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) During events authorized by this section, licensees may also sell promotional and other items relating to promoting their business and its products~~ Dual licensing is permitted for private fairs and festivals pursuant to §60-7-2a of this code.

(k) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or their 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 holders 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 a qualified permit holder operating in a private outdoor designated area approved by a municipality as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption at a certain public property designated as a private outdoor designated area where multiple private club license type licensees who apply and obtain a qualified permit holder permit shall share liability and responsibility. Each qualified permit holder 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 license issued under §60-7-1 *et seq.* of this code.

(c) To be eligible for the license 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 license 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 area which cannot exceed the stated private club hours of operation;

(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 an executed agreement between all qualified permit holders stating that each qualified permit holder is jointly and severally liable for any improper acts or conduct committed in the operation of the private outdoor designated area in conjunction with operation of their Class A license;

(9) 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;

(10) 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;

(11) Meet and be subject to all other private club license type requirements;

(12) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or selling alcohol not in an approved non-glasscontainer in the private outdoor designated area; and

(13) Use an age verification system approved by the commissioner.

(c) 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.

(d) 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.

(e) 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 license.

(f) 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.

(g) 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.

ARTICLE 8. SALE OF WINES.

§60-8-6g. Special privilege of Class A private wine restaurant licensee to operate separate, but connected, Class B wine specialty shop license.

A Class A private wine restaurant licensee may, in the commissioner's discretion, operate Class B wine specialty shop license for the off-premises sale of nonintoxicating beer and wine in a connected but separately operated area of the Class A private wine restaurant is licensed premises: *Provided*, That each business is licensed separately and operates separate cash registers and maintains separation barriers between the different licensed

operations. A licensee who fails to license two inner-connected businesses subjects the licensee to the penalties under this article.

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.

§60-8A-5. Winery or farm winery licensee's authority to manufacture, sell, and provide complimentary samples; growler sales; advertisements; taxes; fees; rulemaking.

(a) *Sales of hard cider.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer hard cider manufactured by the licensed winery or farm winery for retail sale to customers from the winery's or farm winery's licensed premises for consumption off of the licensed premises only in approved and registered hard cider kegs, bottles, or cans, or also sealed wine growlers for personal consumption and not for resale. A licensed winery or farm winery may not sell, give, or furnish hard cider for consumption on the premises of the principal place of business or manufacturing facility located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (b) of this section. 'Wine Growler' has the meaning set forth in §60-8-6c(g) of this code.

(b) *Complimentary samples.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer complimentary samples of hard cider manufactured at the winery's or farm winery's principal place of business or manufacturing facility located in the State of West Virginia. The complimentary samples may be no greater than two fluid ounces per sample per patron, and a sampling shall not exceed six complimentary two-fluid ounce samples per patron per day. A licensed winery or farm winery providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or older and that the patron is not noticeably or visibly intoxicated.

(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. In the interest of promoting tourism throughout the state, every licensed winery or farm winery manufacturing cider in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of only the winery or farm winery's sealed hard cider. At least five days prior to an approved private fair and festival, an authorized winery or farm winery shall provide a copy of a written agreement to sell only hard cider manufactured by the licensed winery or farm winery at the private fair and festival's licensed premises. If approved, an authorized winery or farm winery may conduct 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' 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.

(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.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private bakery, private cigar shop, private caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private food truck, private nine-hole golf course, private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private college sports stadium or coliseum, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with, §60-7-2(6)(iv), §60-7-2(7)(D), §60-7-2(8)(I), §60-7-2(10)(L), §60-7-2(11)(D), §60-7-2(12)(H), §60-7-2(13)(6), §60-7-2(14)(H), §60-7-2(15)(H), §60-7-2(16)(G), §60-7-2(17)(G), §60-7-2(18)(H), §60-7-2(19)(H), §60-7-2(20)(H), §60-7-2(21)(L), §60-7-2(22)(H), §60-7-2(23)(H), §60-7-2(24)(H), §60-7-2(25)(H), §60-7-8c(b)(14), §60-7-8d, §60-7-8g(c)(15), and §60-8-32a of this code; or (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner; and which has designated certain seating areas on

its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan, by using a mandatory carding or identification program by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer are asked and required to provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer."

An amendment sponsored by Delegates Honaker and Hanshaw was reported by the Clerk.

Whereupon,

Delegate Honaker asked and obtained unanimous consent that the amendment be withdrawn.

An amendment to the committee amendment, sponsored by Delegate Capito, was reported by the Clerk, on page 3, section 26, line 43, by striking subsection (f) of that section and inserting in lieu thereof the following new section:

"§8-12-27. Prohibiting municipalities from imposing additional alcohol licensure fees.

Notwithstanding any provision of this Code to the contrary, any person licensed under §11-16-1, et. seq. of this Code, shall not be charged any additional alcohol licensure fee by a municipality."

And,

On page 9, section 6, line 16 by striking the remainder of subsection (a) and inserting in lieu thereof the following:

"In order to promote the state's hospitality and tourism industry, as well as promoting economic development within the state by supporting the development of local breweries, including the application for licensure of brewery owners seeking licensure as a resident brewer in this state while licensed in other states, the commissioner may not consider licensure in such other states as a

limiting factor or as the basis of licensure denial when evaluating applications for licensure as a resident brewer in this state. Any applicant seeking licensure as a resident brewer in this state (1) must meet all requirements for licensure as a resident brewer in this state, (2) must be in good standing in all other jurisdictions wherein the applicant is licensed as a brewer or resident brewer as such terms are defined in the licensing jurisdiction and, (3) must never have had a license revoked in any other state; *Provided*, that persons licensed as resident brewers in this state are limited to producing 25,000 barrels of non-intoxicating beer and limited to self-distribution rights of 10,000 barrels of non-intoxicating beer, and such production and distribution limits shall apply, in the aggregate, whether produced in another state or West Virginia, as to all non-intoxicating beer produced by a person licensed as a resident brewer in West Virginia.”

And,

On page 25, section 8, line 46 immediately following the word “regulations” by striking the word “and” and inserting in lieu thereof the following: “;”

And,

On page 25, section 8, line 47 immediately following the word “building;” by inserting the following: “and”

And,

On page 35, section 8, line 44 immediately following the word “applicant” by deleting “or any executive”

And,

On page 37, section 3a, line 32, immediately following the word “intoxicated” by striking the words “not to exceed three separate West Virginia product brands one fluid ounce samples per patron, per day” and inserting in lieu thereof the following:

“The complimentary liquor samples of the licensed distillery, mini-distillery, or micro-distillery’s product on any sampling day shall not exceed:

(1) Three separate and individual samples serving per customer verified to be 21 years of age or older; and

(2) One and one-half ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed one and one-half ounces.”

And,

On page 45, section 2, line 73, immediately following the word club on line 72 by striking the word “license” and inserting in lieu thereof “licensee”

And,

On page 47, section 2, line 159, by striking both occurrences of the word “license” and inserting in lieu thereof in both instances “licensee”

And,

On page 53, section 2, line 289, immediately following the word “club” by striking the word “license” and inserting in lieu thereof “licensee”

And,

On page 71, section 6, line 6, immediately following the word “hotel” by striking the words “a private food court as defined in §60-7-2 of this code”

And,

On page 72, section 6, line 12 immediately following the word “and” by inserting the following: “\$4,000”

And,

On page 72, section 6, line 14, immediately following the second occurrence of the word “code” by inserting “, or a private food court as defined in §60-7-2 of this code.”

And,

On page 73, section 8a, line 1 immediately following the word “hereby” by striking the word “continued” and inserting in lieu thereof “created”.

Delegate Clark requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote.

The question then being on the adoption of the amendment to the amendment, the same was put and adopted.

An amendment sponsored by Delegate Steele was reported by the Clerk.

Whereupon,

Delegate Steele obtained unanimous consent that the amendment be withdrawn.

The Committee on Judiciary amendment, as amendment was then adopted.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 679**), and there were—yeas 59, nays 32, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Nays: Adkins, Barnhart, Brooks, Burkhammer, Butler, Coop-Gonzalez, DeVault, Dillon, Dittman, Fast, Ferrell, Griffith, A. Hall, Hanna, Holstein, Honaker, Jeffries, Jennings, Keaton, Kump, Linville, Longanacre, Mazzocchi, McGeehan, Miller, Pinson, Ross, Toney, Vance, Ward, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Chiarelli, Cooper, Horst, Kirby, Mallow, Street, Westfall and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 534) passed.

Delegate Young, who was absent on Roll No. 279, noted to the Clerk that she would have voted “Yea” thereon.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub for S. B. 534 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §8-12-26 and §8-12-27; to amend and reenact §11-16-3, §11-16-6, §11-16-6a, §11-16-6d, §11-16-6f, §11-16-8, §11-16-9 of said code; to amend and reenact §60-3A-3a, and §60-3A-8 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-2, §60-7-2a, §60-7-6, and §60-7-8a of said code; to amend said code by adding thereto a new section designated §60-7-8g; to amend said code by adding thereto a new section, designated §60-8-6g; to amend and reenact §60-8A-5 of said code; and to amend and reenact §61-8-27 of said code; all relating to nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor license requirements; defining terms; authorizing municipalities to create private outdoor designated areas by ordinances; creating special permit for Class A licensees who apply to be qualified permit holders to operate in private outdoor designated areas, setting forth requirements, and setting fees; providing municipalities may not impose additional license fees on any state licensee; promoting tourism in the state by permitting authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries a limited off-site retail privilege for off-premises consumption sales for nonintoxicating beer manufactured by them and permitting limited complimentary samples at private fair and festivals; providing requirements for the conduct of the sales at private fairs and festivals; requiring payment of taxes, fees and markups, and no license fee; clarifying the nonintoxicating beer growler

requirements for contents and sealing; allowing brewer and resident brewer to have additional places of manufacture under one license and based on manufacturing volume capacity; reducing fees and limiting additional places of manufacture under one license; forbidding the commissioner from considering licenses in other state as a criterion when evaluating applications for licensure in this state; providing that any applicant for licensure in this state must meet all requirements, must be in good standing in all other states and must never had a license revoked in any other state in which it is licensed; providing, that persons licensed as resident brewers in this state are limited to producing 25,000 barrels of non-intoxicating beer and limited to self-distribution rights of 10,000 barrels of non-intoxicating beer; providing that such production and distribution limits shall apply, in the aggregate, whether produced in another state or West Virginia, as to all non-intoxicating beer produced by a person licensed as a resident brewer in West Virginia; providing a licensed brewer or resident brewer may enter into contract brewing services 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; requiring any such contract brewing services agreement shall be provided to the West Virginia Alcohol Beverage and Control Administration and contain enumerated terms and conditions: removing limit on nonintoxicating beer or nonintoxicating craft beer which may be included with an order, sale or delivery of multiple meals; allowing commissioner to refuse a license if applicant or manager is not a suitable applicant; increasing number and size of liquor samples that are permitted; requiring manager to be suitable applicant and of good moral character; reducing and modifying food inventory required for private cigar shop, private club bars, private food truck, private manufacturer club, private hotel, private resort hotel, private farmers market in a private club restaurant, private multi-sport complex, and private food court; allowing a private manufacturer club to have operating food truck or other portable kitchen in lieu of on-premises food preparation facilities; removing acreage requirement for private wedding venue or barn license; clarifying nonintoxicating beer license

requirements for persons, fairs and festivals; clarifying retail liquor outlet license requirements for applicants; clarifying that the statute applying to distilleries and mini-distilleries also applies to micro-distilleries; clarifying manufacturing limitations on distilleries, mini-distilleries, and micro distilleries; permitting dually licensed events, and a license fee; creating a private coliseum or center license and specifying license requirements; authorizing private coliseum or center license to conduct a temporary event in conjunction with a private fair and festival licensee and setting forth requirements; setting fees; creating a private food court license and specifying license requirements; clarifying dual licensing requirements and authorization for private fair and festivals, requirements, and no license fee; permitting private fairs and festivals to conduct on-premises consumption sales with certain requirements; permitting private fairs and festivals to allow authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries to conduct limited off-premises consumption retail sales with certain requirements from the private fair and festival's licensed premises; permitting a private wine restaurant to operate a separately licensed but connected wine specialty shop; clarifying unlawful admission to dance hall; and exempting permit holder operating a private outdoor designated area, private coliseum or center licensee, or private food court from prohibition on admitting persons under the age of 18."

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 544, Increasing power purchase agreement cap; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 680**), and there were—yeas 85, nays 7, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Dillon, Gearheart, Heckert, Ridenour, Street and Vance.

Absent and Not Voting: Bridges, Cooper, Foggin, Horst, Kirby, Mallow, Ross and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 544) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

S. B. 544 – “A Bill to amend and reenact §24-2-1 of the Code of West Virginia, 1931 as amended, relating to increasing the power purchase agreement (PPA) cap from 25 kW to 50kW for residential customers and from 500 kW to 1,000 kW for commercial customers.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 546, Adding and removing certain compounds from controlled substance list; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 681**), and there were—yeas 91, nays 3, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Nestor, Pushkin and Vance.

Absent and Not Voting: Bridges, Cooper, Kirby, Mallow, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 546) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid; on third reading, coming up in regular order, with the right to amend, was read reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, on page 7, section 45, line 27,

Striking the period after “office” and inserting in lieu thereof “or complete and execute a notarized affidavit affirming that they meet the requirements set forth in this Article on the day of the sale.”

And,

On page 8, section 45, lines 32, 33-34 by inserting “and” after “state;” and removing lines 33 and 34 in their entirety and renumbering accordingly.

And,

On page 11, section 48, lines 22, 23-24 by inserting “and” after “state;” and removing lines 23 and 24 in their entirety and renumbering appropriately.

In the absence of objection, an amendment to the bill, sponsored by Delegate Foster, was reformed to be an amendment to the amendment on page 7, section 45, beginning on line 31, by striking subdivision 2 in its entirety and inserting a new subdivision 2 to read as follows:

“(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;” and renumbering the remaining subdivisions accordingly;

Beginning on page 7, section 45, after line 32, by inserting a new subdivision 3 to read as follows:

“(3) Has a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to §7-1-3ff

and §8-12-16 of this code; and” and renumbering the remaining subdivisions accordingly;

On page 11, section 48, beginning on line 21, by striking subdivision 2 in its entirety and inserting a new subdivision 2 to read as follows:

“(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;” and renumbering the remaining subdivisions accordingly;

And,

Beginning on page 11, section 48, after line 22, by inserting a new subdivision 3 to read as follows:

“(3) Has a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to §7-1-3ff and §8-12-16 of this code; and;” and renumbering the remaining subdivisions accordingly.

The question being on the adoption of the amendment to the amendment, the same was put and adopted.

The Committee on the Judiciary amendment, as amended, was then adopted.

An amendment was offered by Delegate Tully.

Delegate Tully requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote.

On motion of Delegate Tully, the bill was amended on page 11, line 16, by inserting following: “Provided, However, That instead of the Auditor, a purchaser may engage a licensed attorney to provide a title examination at his or her own cost.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 682**), and there were—yeas 88, nays 1, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Foggin.

Absent and Not Voting: Bridges, Cooper, DeVault, Dittman, Fluharty, Hornbuckle, Mallow, Martin, Pinson, Ridenour and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 548) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 561, Relating to administration of WV Drinking Water Treatment Revolving Fund Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 683**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, DeVault, Dittman, Fluharty, Hornbuckle, Mallow, Pinson, Ridenour, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 561) passed.

On motion of Delegate Criss, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 561 – “A Bill to repeal §16-13C-1, §16-13C-2, §16-13C-3, §16-13C-4, §16-13C-5, and §16-13C-6 of the Code of West Virginia, 1931, as amended; and to amend said code

by adding thereto a new article, designated §22-36-1, §22-36-2, §22-36-3, §22-36-4, §22-36-5, §22-36-6, and §22-36-7, all relating to the administration of the West Virginia Drinking Water Treatment Revolving Fund; transferring administration of Drinking Water Treatment Revolving Fund from Department of Health and Human Resources to Department of Environmental Protection; adding provisions relating to review by Department of Environmental Protection of funded projects and implementation of mitigation efforts if necessary to protect public health and the environment; and providing for Department of Environmental Protection to propose legislative rules.”

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 684**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Fluharty, Hornbuckle, Mallow, Pinson, Ridenour, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 561) takes effect July 1, 2023.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 568, Relating to Dangerousness Assessment Advisory Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 685**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hornbuckle, Mallow, Ridenour, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 568) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 686**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Hornbuckle, Mallow, Ridenour, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 568) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 573, Relating to child support guidelines and Support Enforcement Commission; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, on page 1, section 205, line 8, by striking the word “noncustodial”; and on page 1, section 205, line 11 by striking the word “noncustodial”;

And,

On page 3, section 202, by inserting

§48-13-202. Application of expenses and credits in determining child support.

In determining the total child support obligation, the court shall:

(1) Add to the basic child support obligation any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court; and

(2) Subtract any extraordinary credits agreed to by the parents or ordered by the court.

(3) The court shall deduct student loan payments for which the parents are liable from the gross income of the parents. *Provided*, that such payments are current and not in arrears.

In the absence of objection, an amendment to the bill, sponsored by Delegate Capito,⁷ was reformed and the amendment was amended, on page 3, section 202, by striking paragraph (3) and inserting in lieu thereof the following:

“(3) Deduct from a parent’s adjusted gross income the reasonable monthly amount of a student loan payment actually being paid to the lending institution that originally issued the loan by a parent for a student loan debt owed in his or her own name and for his or her own educational expenses; provided that the total amount of the student loan payment deducted may not exceed 25% of the parent’s total gross income determined before the deduction. The Family Court shall have discretion to exclude all or a portion of the student loan deduction if the parent with the student loan debt is in child support arrears, if the parent is not current or is in arrears on the student loan payment, if the student loan is being paid by a third party and not the parent, or if the child is not receiving or expected to receive a financial benefit from the education associated with the student loan expenses incurred. If the student loan deduction is awarded:

(a) The parent shall have a duty to immediately disclose to the Court, the BCSE, and any other party, any changes in the monthly amount of the student loan payment, including any payment deferrals or student loan forgiveness.

(b) The Court may require a parent to annually disclose to the Court, the BCSE, and any other party, a statement showing a history of student loan payments for the prior year.

(c) Failure to timely make the disclosures above may be a basis for the Court to modify child support to exclude the student loan deduction, including retroactively to the first of the month following any unreported change.”

The amendment recommended by the Committee on the Judiciary, as amended, was then adopted.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 687**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Crouse, Longanacre, Mallow, Sheedy and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 573) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 573 – “A Bill to amend and reenact §48-1-205 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-13-202, §48-13-301, §48-13-302, §48-13-303, §48-13-403, §48-13-404, §48-13-501, and §48-13-502 of said code, all relating generally to the child support guidelines and the Support Enforcement Commission; allowing a deduction for student loan payments under specific circumstances, clarifying circumstances and factors for attributed income; updating monthly basic child support obligations to reflect 2022 financial data; updating income amount requiring manual calculation to determine basic child support obligation; updating amount for the ability to

pay calculation and self-support reserve; and amending the multiplier for extended shared parenting adjustment.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 579, Providing payment to vendors who provided services to state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 688**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Longanacre, Mallow, Sheedy and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 579) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 689**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Criss, Longanacre, Mallow and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 579) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 608, Correcting list of items which are considered deadly weapons; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 690**), and there were—yeas 92, nays 3, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Foggin, Hansen and Walker.

Absent and Not Voting: Bridges, Criss, Longanacre, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 608) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

S. B. 608 - “A Bill to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating to dangerous weapons; correcting the partial list of items which are considered deadly weapons; and removing certain age restrictions relating to pepper spray.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study; on third reading, coming up in regular order, was read a third time.

Delegates Pushkin, Young and Walker requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 691**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 617) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 617 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated, §16-5W-1, §16-5W-2, §16-5W-3, §16-5W-4, §16-5W-5, §16-5W-6, §16-5W-7, §16-5W-8 and §16-5W-10; to repeal §27-8-2b and §27-8-3 of said code; to repeal §27-9-1 of said code; to repeal §27-13-1 and §27-13-2 of said code; and to repeal §27-17-1, §27-17-2, §27-17-3, and §27-17-4 of said code; all relating to regulation of behavioral health services; defining terms; requiring access to consumers; requiring access to records; regulating behavioral health centers; providing rulemaking authority; establishing a mental health ombudsman; providing authority to the ombudsman; providing an exemption of consumer information from the Freedom of Information Act; requiring reporting; permitting a civil penalty; requiring a workforce study; outlining program data required to be included in the study; requiring recommendations for hourly pay; and creating an annual capitation review.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 631, Updating administration, funding, and requirements for federal elections held in WV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 692**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 631) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 633, Requiring prompt appearances for persons detained on capiases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 693**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 633) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 633 - “A Bill to amend and reenact §62-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-1C-17b of said code; and to amend and reenact §62-2-17 of said code, all relating to failure to appear; requiring compliance with the magistrate court criminal rules; requiring transport to the regional jail serving the charging county if an arrest occurs in a county other than the charging county and the defendant remains incarcerated after the arraignment; requiring prompt court appearances for persons detained on capiases or warrants for

failure to appear; providing procedures for issuing bench warrants and capiases for nonappearance at scheduled court hearings or other proceeding; providing for purposes of capiases for failure to appear after indictment, that newspaper publication alone does not constitute effective notice; allowing a grace period after a failure to appear to allow certain defendants to appear except in defined circumstances; providing procedures following execution of bench warrants for nonappearance; providing that in all cases where a defendant is arrested and held under a capias for failure to appear in the county wherein the charge or charges is pending, and he or she is entitled to admission to bail, an initial appearance shall be held as soon as practicable, or within five days whichever is sooner, and bail shall be considered; and requiring courts to ensure that all inactive warrants and capiases for failure to appear are removed from law-enforcement databases.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 647, Relating to substantiation of abuse and neglect allegations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 694**), and there were—yeas 89, nays 4, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Dillon and Kirby.

Absent and Not Voting: Bridges, Burkhammer, Foster, Mallow, Steele, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 647) passed.

On motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 647 - “A Bill to amend and reenact §49-4-601b of the Code of West Virginia, 1931, as amended, relating to substantiation of abuse and neglect allegations; requiring that when an abuse and/or neglect allegation is substantiated and a child abuse petition could be filed and the department does not do so, records related to the allegation are sealed after one year, absent a new allegation within that year; excluding persons from having records sealed who have a substantiated case but no court case can be filed; requiring that substantiated cases where the court does not adjudicate abuse and/or neglect be deemed unsubstantiated; allowing a petition to seal a file after five years for persons found to be creating an abusing parent; exceptions; criteria; directing the department to propose legislative rules to effectuate the statutory directive; clarifying terms relating to abuse and/or neglect; and defining terms.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 661, Clarifying preferential recall rights for employees sustaining compensable injury; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 695**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Burkhammer, Foster, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 661) passed.

On motion of Delegate Phillips, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 661 - “A Bill to amend and reenact §23-5A-3 of the Code of West Virginia, 1931, as amended, relating to

the preferential recall rights of an employee who is off work due to a compensable injury; providing that any demand for reinstatement made by an injured employee must be made in writing; providing for how and where the demand for reinstatement must be mailed; providing requirements for an injured employee's reinstatement to his or her former position; providing for a preferential recall time period of 120 days when the injured employee is employed by contractors as defined by §30-42-3 of said code; stating that it is the employee's obligation to continually seek the possibility of employment during the preferential recall period; and providing that the employee's right to preferential recall terminates once the employer offers the employee his or her former position or a comparable position."

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 665, Amending licensure requirements for massage therapist; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 696**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Foggin, A. Hall and Ridenour.

Absent and Not Voting: Bridges, Burkhammer, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 665) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 674, Providing statutory recognition and appointment of board members for WV First Foundation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 697**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Burkhammer, DeVault, Mallow, Street and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 674) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 698**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, DeVault, Mallow, Street and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 674) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

At 6:25 p.m., on motion of Delegate Householder, the House of Delegates recessed until 7:15 p.m.

* * * * *

Evening Session

* * * * *

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 677, Clarifying role and responsibilities of State Resiliency Officer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 699**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Capito, Dillon, Ferrell, Mallow, Pinson, Shamblin, Westfall and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 677) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 700**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Dillon, Ferrell, Mallow, Pinson, Pushkin, Shamblin and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 677) takes effect from its passage.

S. B. 678, Adding appropriations to DHHR, Division of Human Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 701**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Mallow, Pushkin and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 678) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 702**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Mallow, Pushkin and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 678) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 733, Relating to wildlife licenses and stamps; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 703**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ferrell, Mallow, Pushkin and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 733) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 734, Requiring adoption of cloud computing services by state agencies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 704**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dillon and Street.

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 734) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 735, Clarifying department responsible for administration of certain programs; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on Government Organization, and adopted, on page 3, section 15, line 47, by changing the number "2024" to "2029"

On motion of Delegate Phillips, the bill was amended on page 1, section 3, lines 1 through 9, by striking §5B-1A-3 in its entirety.

On motion of Delegate Phillips, the bill was amended on page 7, section 4, lines 3 through 4 by striking out all of subsection (b) and inserting in lieu thereof the following:

“(b) The Governor shall appoint and set the salary of the director of the office who shall be responsible for hiring such assistants and clerical staff as may be necessary to carry out the responsibilities of the office. The initial appointment for the

director shall be made by July 1, 2026. Funding for this position and to carry out the duties of the office shall be provided by appropriation of the Legislature.

(c) The director shall report quarterly to the energy and finance committees of the legislature on projects funded by the office. The report shall include the amount, the recipient and a description of each project funded.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 705**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 735) passed.

On motion of Delegate Phillips, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 735 – “A Bill to amend and reenact §5B-2-15 of said code, to amend and reenact §5B-2A-3 and §5-2A-4 of said code; to amend and reenact §5B-8-1 of said code; to amend and reenact §11-13X-9 of said code; and to amend and reenact §31G-1-5 and §31G-1-14 of said code, all relating to clarifying the department responsible for the administration of certain programs; providing an extension on the date work is to be concluded; providing the Governor appoint and set the salary of the director of the office; providing that funding for the position and to carry out the duties of the office shall be as provided by appropriation of the Legislature; and providing requirements for quarterly reports.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Delegate Householder asked and obtained unanimous consent to return to further consideration of Com. Sub. for S. B. 677.

At the request of Delegate Householder, and by unanimous consent, the vote on the effective date of the bill was reconsidered.

Delegate Householder then obtained unanimous consent to withdraw the effective date motion.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 677 — “A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; to repeal §15-5-4b, §15-5-4c, §15-5-24, §15-5-25, and §15-5-26, and of said code; to amend and reenact §29-31-1 and §29-31-2 of said code; to amend said code by adding thereto new sections, designated §29-31-2a; to amend and reenact §29-31-3 of said code; and to amend said code by adding thereto new sections, designated §29-31-6, §29-31-7, §29-31-8, §29-31-9, §29-31-10, §29-31-11, §29-31-12, §29-31-13 and §29-31-14, all relating to the Resiliency and Flood Protection Planning Act generally; modifying definitions; repealing, continuing, and moving provisions governing the West Virginia Disaster Recovery Trust Fund into the Act; revising provisions governing the State Resiliency Office, the State Resiliency Officer and the State Resiliency Board within the Act; expanding upon the qualifications, powers and duties of the State Resiliency Officer and the deputy State Resiliency Officer, including but not limited to requiring a vulnerability assessment of critical infrastructure at the state and municipal levels including hospitals, schools, fire stations, and comparable facilities; requiring leadership in state planning efforts “in the event of” states of emergency; and requiring development of new state Flood Resiliency Plan; providing for receipt and disbursement of funds from the West Virginia Disaster Recovery Trust Fund and the duties of the State Resiliency Officer in administering the same; creating the West Virginia Flood Resiliency Trust Fund; providing for receipt and disbursement of funds from the West Virginia Flood

Resiliency Trust Fund and the duties of the State Resiliency Officer in administering the same; and providing tax exemption.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 706**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 677) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House therein.

S. B. 737, Emergency Medical Services Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 707**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, A. Hall, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 737) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 739, Relating to moratorium on carbon capture agreements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 708**), and there were—yeas 86, nays 11, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dean, Griffith, Hansen, Heckert, E. Pritt, Pushkin, Rowe, Shamblin, Walker, Williams and Young.

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 739) passed.

On motion of Delegate Anderson, the title of the bill was amended to read as follows:

S. B. 739 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-4b; relating to carbon offset agreements affecting real property interests; requiring parties to current and new carbon offset agreements to register with the West Virginia Tax Department; providing for registration requirements and identifying certain information to be submitted to the Tax Department; providing for business registration certificates; defining terms, including carbon offset agreements and greenhouse gases; providing exceptions for underground sequestration and methane flaring; requiring reports of specified information by the Tax Department to the Legislature and Executive; authorizing generalized disclosure of information by the Tax Commissioner for said reports; specifying application of West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; and authorizing promulgation of rules by the Tax Department.”

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 709**), and there were—yeas 88, nays 9, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dean, Griffith, Hansen, E. Pritt, Pushkin, Rowe, Walker, Williams and Young.

Absent and Not Voting: Bridges, Mallow and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 739) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 740, Relating to compensation and expense reimbursement for members of Legislature; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on Finance, and adopted, on page four, section four, line twenty-five, by striking out the words “presiding officer” and inserting in lieu thereof the words “chairperson or additional person”;

And,

On page five, section six, line one, following the words “Each member”, by striking out the words “and member-elect”.

An amendment, sponsored by Delegate Coop-Gonzalez, was reported by the Clerk, on page 3, section 4, line 9, immediately following the word “code” by inserting the following:

“: *Provided, however*, no additional compensation shall be paid pursuant to the provisions of this subdivision for more than 60 days for attending to legislative business when the Legislature is not in regular session.”

Delegate Coop-Gonzalez asked unanimous consent that the amendment be reformed by adding a period after the word “business” and striking out the rest of the amendment, which consent was not granted, objection being heard.

Delegate Coop-Gonzalez then so moved.

On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 710**), and there were—yeas 31, nays 66, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Brooks, Butler, Capito, Coop-Gonzalez, Dean, Dillon, Ellington, Espinosa, Fast, Foggin, Foster, A. Hall, Keaton, Kimble, Kirby, Linville, Longanacre, Martin, McGeehan, Nestor, Phillips, Pinson, Pushkin, Ridenour, Ross, Statler, Steele, Toney, Vance and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present not having voted in the affirmative, the motion was rejected.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 711**), and there were—yeas 13, nays 84, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Brooks, Butler, Coop-Gonzalez, Dean, Dillon, Foster, A. Hall, Kirby, Longanacre, Martin, McGeehan, Pushkin and Vance.

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

An amendment sponsored by Delegate Foster was reported by the Clerk.

Whereupon,

Delegate Foster asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Burkhammer, the bill was amended bill on page 1, section 2, line 3, immediately following the words “equal to” by inserting “75% of”

And,

On page 2, section 2, line 20, immediately following the words “six thousand” by striking “five hundred”

And,

On page 2, section 2, line 27, immediately following the words “six thousand” by striking “five hundred”.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 712**), and there were—yeas 54, nays 43, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Capito, Chiarelli, Coop-Gonzalez, Dean, Dillon, Fluharty, Garcia, Gearheart, Griffith, A. Hall, Hanna, Hansen, Hillenbrand, Holstein, Hornbuckle, Keaton, Kimble, Kirby, Kump, Linville, Longanacre, Martin, McGeehan, Nestor, Phillips, E. Pritt, Pushkin, Reynolds, Rohrbach, Ross, Rowe, Shamblin, Skaff, Storch, Street, Tully, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Bridges, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 740) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk.

Whereupon,

Delegate Criss asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Criss, the title of the bill was amended to read as follows:

S. B. 740 - “A Bill to amend and reenact §4-2A-2, §4-2A-3, §4-2A-4, §4-2A-5, §4-2A-6, and §4-2A-7 of the Code of West Virginia, 1931, as amended, all relating to compensation and expense reimbursement for members of the Legislature as recommended by the Citizens Legislative Compensation Commission; modifying the basic compensation to an amount equal to 75% of the per capita income in West Virginia; modifying the per diem expense allowance for members of the Legislature when in regular, extended, or extraordinary session; modifying the compensation, per diem expense allowance, and travel reimbursement paid to designated members of the Legislature when not receiving compensation for being in attendance during a regular, extended, or extraordinary session; modifying interim compensation paid to members of the Legislature; and modifying the per diem expense allowance for members of the Legislature who both commute and do not commute.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2883, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund; on third reading, coming up in regular order, was read a third time.

Delegate A. Hall requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote.

On the passage of the bill, the yeas and nays were taken (**Roll No. 713**), and there were—yeas 79, nays 17, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Brooks, Coop-Gonzalez, Dean, Dillon, Fluharty, Kimble, Kirby, Kump, McGeehan, C. Pritt, E. Pritt, Pushkin, Rowe, Vance, Walker, Worrell and Young.

Absent and Not Voting: Bridges, W. Hall, Mallow and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2883) passed.

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 714**), and there were—yeas 82, nays 14, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Brooks, Coop-Gonzalez, Dean, Dillon, Kimble, Kirby, Kump, McGeehan, C. Pritt, E. Pritt, Pushkin, Vance, Walker and Worrell.

Absent and Not Voting: Bridges, Mallow, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2883) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

Com. Sub. for S. B. 552, Relating to abortion; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk.

Delegate Summers asked and obtained unanimous consent that an amendment sponsored by the Delegate be considered first.

On motion of Delegate Summers, the bill was amended on page 1, by striking everything after the enacting clause and inserting the following:

“ARTICLE 2R. UNBORN CHILD PROTECTION ACT.**§16-2R-9. Severability.**

If any provision of ~~§16-2R-1 et seq.~~ of this code is judicially determined to be unconstitutional, this entire article shall be of no force and effect and the provisions of ~~§16-2F-1 et seq., §16-2I-1 et seq., §16-2M-1 et seq., §16-2O-1, §16-2P-1, §16-2Q-1, and §33-42-8~~ of this code shall become immediately effective.

Severability as provided in §2-2-10(b)(7) is applicable to this article: *Provided*, That if this entire article is judicially determined to be unconstitutional, then the provisions of §16-2F-1 et seq., §16-2I-1 et seq., §16-2M-1 et seq., §16-2O-1, §16-2P-1, §16-2Q-1, and §33-42-8 of this code shall become immediately effective: *Provided, however*, That if a provision or provisions of §16-2R-1 et seq. are judicially determined to be unconstitutional, then the provisions of §16-2F-9, §16-2I-9, §16-2M-7, §16-2O-1(e), §16-2P-1(d), §16-2Q-1(m), and §33-42-8(d) are not effective.

An amendment sponsored by Delegate Ellington was reported by the Clerk.

Whereupon,

Delegate Ellington asked and obtained unanimous consent that the amendment be withdrawn.

Delegate Summers asked and obtained unanimous consent that the amendment recommended by the Committee on Health and Human Resources be withdrawn.

Delegate Householder moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 715**), and there were—yeas 84, nays 12, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, Hornbuckle, Kump, E. Pritt, Pushkin, Rowe, Skaff, Walker, Williams and Young.

Absent and Not Voting*: Bridges, Mallow, Westfall and Worrell.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

*Delegate Pinson announced that his vote did not register and he is recorded as “Yea”.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 716**), and there were—yeas 81, nays 13, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Gearheart, Hansen, Hornbuckle, E. Pritt, Pushkin, Rowe, Skaff, Storch, Walker, Williams and Young.

Absent and Not Voting: Bridges, Criss, Kump, Mallow, Westfall and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 552) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 552- “A Bill to amend and reenact §16-2R-9 of the Code of West Virginia, 1931, as amended; relating to abortion; and revising severability clauses.”

Delegate Householder moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 717**), and there were—yeas 84, nays 10, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, Hornbuckle, Pushkin, Rowe, Skaff, Walker, Williams and Young.

Absent and Not Voting: Bridges, Criss, Kump, Mallow, Westfall and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 552) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Leaves of Absence

At the request of Delegate Householder, and by unanimous consent, leave of absence for the day was granted Delegate Mallow.

At 9:30 p.m., the House of Delegates adjourned until 10:00 a.m., Saturday, March 11, 2023.