

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 2014
First Extraordinary Session, 2014
Second Extraordinary Session, 2014

Volume I
Chapters 1 - 103



WEST VIRGINIA HOUSE OF DELEGATES
HONORABLE TIMOTHY R. MILEY
SPEAKER OF THE HOUSE

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF
GREGORY M. GRAY
CLERK OF THE HOUSE



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FOREWORD

These volumes contain the Acts of the Second Regular Session and the First and Second Extraordinary Sessions of the 81st Legislature, 2014.

Second Regular Session, 2014

The Second Regular Session of the 81st Legislature convened on January 8, 2014. The Constitutional sixty-day limit on the duration of the session was midnight, March 8, 2014. The Governor issued a proclamation on March 5, 2014, extending the session for a period not to exceed four days for the purpose of considering the Budget and supplementary appropriation bills. A subsequent proclamation was issued on March 12, 2014, and the Legislature adjourned *sine die* on March 14, 2014.

Bills totaling 1,877 were introduced in the two houses during the session (1246 House, 623 of which were carryover bills from the 2013 Regular Session, and 631 Senate). The Legislature passed 201 bills, 105 House and 96 Senate.

The Governor vetoed ten bills (**Com. Sub. for H. B. 2165**, Relating to death certificates of military veterans; **Com. Sub. for H. B. 4254**, Providing that certain state employees may be granted a leave of absence with pay during a declared state of emergency; **Com. Sub. for H. B. 4343**, West Virginia Project Launchpad Act; **Com. Sub. for H. B. 4425**, Giving the Superintendent of State Police authority to hire additional staff; **H. B. 4445**, Modifying the definition of “battery” and “domestic battery”; **H. B. 4588**, Protecting unborn children who are capable of experiencing pain by prohibiting abortion after twenty weeks; **Com. Sub. for S. B. 12**, Relating to expedited partner therapy treatment; **Com. Sub. for S. B. 307**, Relating to pretrial management of persons charged with committing crimes; **S. B. 426**, Relating to appointments to certain higher education commissions, councils and boards; and **Com. Sub. for S. B. 477**, Providing teachers determine use

of time during planning period). The Legislature amended and again passed H. B. 4445 and Com. Sub. for S. B. 307, leaving a net total of 193 bills, 100 House and 93 Senate, which became law.

There were 243 Concurrent Resolutions introduced during the session, 142 House and 101 Senate, of which 58 House and 24 Senate were adopted. Forty-four House Joint Resolutions (of which 33 were carryover House Joint Resolutions) and 14 Senate Joint Resolutions were introduced, one of which was adopted by the Legislature, **H. J. R. 108**, Nonprofit Youth Organization Tax Exemption Support Amendment. The House introduced 17 House Resolutions, and the Senate introduced 56 Senate Resolutions, of which 11 House and 49 Senate were adopted.

The Senate failed to pass 41 House bills passed by the House, and 44 Senate bills failed passage by the House. One House bill died in conference: **H. B. 4411**, Allowing the disposal of drill cuttings and associated drilling waste generated from well sites in commercial solid waste facilities; and one bill, **Com. Sub. for S. B. 6**, Regulating sale of drug products used in manufacture of methamphetamine, failed passage and was discharged from Conference after the time had expired to announce the availability of the Conference Report.

First Extraordinary Session, 2014

The Proclamation calling the Legislature into Extraordinary Session immediately upon the conclusion of the extended Regular Session on March 14, 2014 contained ten items for consideration.

The Legislature passed, and the Governor approved 9 bills, 5 House and 4 Senate. The Senate adopted 4 Senate Resolutions.

The Legislature adjourned the Extraordinary Session *sine die* on March 14, 2014.

Second Extraordinary Session, 2014

The Proclamation calling the Legislature into Extraordinary Session immediately upon the conclusion of the extended Regular Session on May 19, 2014 contained six items for consideration.

The Legislature passed, and the Governor approved 6 bills, 3 House and 3 Senate. The Senate adopted 4 Senate Resolutions.

The Legislature adjourned the Extraordinary Session *sine die* on May 21, 2014.

* * * * *

These volumes will be distributed as provided by sections thirteen and nineteen, article one, chapter four of the Code of West Virginia.

These Acts may be purchased from the Office of the Clerk of the House, 212 Main Unit, State Capitol, Charleston, West Virginia 25305.

GREGORY M. GRAY
*Clerk of the House and
Keeper of the Rolls.*

TABLE OF CONTENTS

TABLE OF CONTENTS

ACTS

Regular Session, 2014

GENERAL LAWS

Chapter	Bill No.		Page
AGRICULTURE			
1.	(SB350)	Relating to Rural Rehabilitation Loan Program.	1
2.	(*SB469)	Creating Veterans and Warriors to Agriculture Program.	3
3.	(*HB3011)	Removing the Provision That Requires An Applicant to Meet Federal Requirements Concerning the Production, Distribution and Sale of Industrial Hemp Prior to Being Licensed.	5
4.	(*SB365)	Relating to Administration of Conservation Agency Programs.	7
ALCOHOL LIQUORS			
5.	(*HB4402)	Providing a Procedure for the Conditional Discharge for First Offense Underage Purchase, Consumption, Sale, Service or Possession of Alcoholic Liquor.	8
6.	(*SB450)	Relating to Sale and Consumption of Alcoholic Beverages In Certain Outdoor Settings.	11
7.	(HB4529)	Relating to the Sale of Wine.	25

TABLE OF CONTENTS

APPROPRIATIONS

8. (HB4177) Making a Supplementary Appropriation
To Various Agencies..... 33

9. (HB4178) Making a Supplementary Appropriation to the
Department of Commerce, Workforce
West Virginia..... 37

10. (HB4182) Supplementing, Amending, Increasing,
Decreasing, And Adding Items of
Appropriations in Various Accounts.. 38

11. (*HB4183) Supplementing, Amending, Decreasing,
And Increasing Items of the Existing
Appropriations from the State Road Fund
To the Department of Transportation,
Division of Highways..... 45

12. (HB4621) Expiring Funds to the Board of Risk
And Insurance Management, Patient Injury
Compensation Fund From the Board of
Risk and Insurance Management
Medical Liability Fund..... 47

13. (*SB306) Budget Bill, Making Appropriations of
Public Money Out of the Treasury in
Accordance with Section Fifty-one,
Article Six of the Constitution. 48

14. (SB346) Making Supplementary Appropriation
From Lottery Net Profits to DNR and
Bureau of Senior Services..... 283

15. (SB341) Making Supplementary Appropriation
from State Excess Lottery Revenue
Fund to Division of Human Services. 286

AUCTIONEERS

16. (*HB4410) Redefining Auctioneer Exceptions..... 287

TABLE OF CONTENTS

BENEFIT CORPORATION ACT

17. (SB202) Creating Benefit Corporation Act..... 300

BOARD OF PUBLIC WORKS

18. (*HB4149) Allowing Members of the Board of
Public Works To Be Represented by
Designees and to Vote by Proxy..... 310

CLAIMS

19. (HB4503) Declaring Certain Claims Against the
State and its Agencies to Be Moral
Obligations of the State..... 311
20. (SB558) Finding and Declaring Certain
Claims Against State..... 313

CONCEALED WEAPONS

21. (HB4186) Relating to the Procedures for
Issuing a Concealed Weapon License..... 333

CONSUMER PROTECTION

22. (*HB4360) Relating to Consumer Credit Protection..... 342

CONTROLLED SUBSTANCES

23. (*HB4208) Banning Synthetic Hallucinogens..... 344

COOPERATIVE ASSOCIATIONS

24. (HB4488) Eliminating the Requirement for
Notarization of the Articles of Incorporation
For Cooperative Associations..... 385

COOPERATIVE ASSOCIATIONS

25. (*SB383) Permitting Certain Residential Real Estate
Owners Limited Exemptions from
Licensing Requirements..... 388

TABLE OF CONTENTS

CORRECTIONAL FACILITIES

26. (SB457) Requiring Programs for Temporarily
Detained Inmates In Regional Jails..... 397

COUNTIES

27. (*SB439) Permitting Ohio County Commission
Levy Special District Excise Tax
For Fort Henry. 398

COURT FEES

28. (*SB458) Dedicating Certain Circuit Court Fees to Fund
Low-income Persons' Civil Legal Services. 404

COURT OF CLAIMS

29. (*HB4552) Relating to the Court of Claims. 409

COURT REPORTERS

30. (*HB4294) Establishing Standards for Court
Reporters and Entities That Provide
Court Reporting Services. 416

CRIME VICTIMS

31. (*SB204) Relating to Crime Victims
Compensation Awards. 422

CRIMES AND THEIR PUNISHMENT

32. (HB4445) Modifying the Definition of "Battery"
And "Domestic Battery"..... 436

33. (*SB397) Expanding the Scope of Activities
Considered Financial
Exploitation of the Elderly. 441

TABLE OF CONTENTS

34.	(*SB90)	Creating Criminal Offense for Interfering Or Preventing Call for Assistance Of Emergency Service Personnel.	444
35.	(HB4006)	Relating to the Possession and Distribution Of Child Pornography.....	449
36.	(*HB4005)	Relating to Criminal Offenses for Child Abuse and Child Neglect.	451
37.	(*HB4210)	Juvenile Sentencing Reform.	459

CRIMINAL PROCEDURE

38.	(*SB307)	Relating to Pretrial Management of Persons Charged With Committing Crimes.	464
-----	----------	--	-----

CURRENCY EXCHANGE

39.	(*HB4290)	Revising the Regulatory Structure of Money Transmitters and Other Entities.	473
-----	-----------	---	-----

DANGEROUS WILD ANIMALS ACT

40.	(*HB4393)	Creating the Dangerous Wild Animals Act.....	492
-----	-----------	--	-----

DOGS

41.	(*HB2757)	Private Cause of Action for the Humane Destruction of a Dog.....	501
-----	-----------	---	-----

DOMESTIC RELATIONS

42.	(*SB58)	Relating to Basis for Voidable Marriages and Annulments.....	504
43.	(*HB4139)	Restricting Parental Rights of Child Custody and Visitation When the Child Was Conceived as a Result of a Sexual Assault Or Sexual Abuse.....	507

TABLE OF CONTENTS

DRIVER'S LICENSES

44. (*SB431) Relating to Issuance and Renewal of Certain
Driver's Licenses and Federal ID Cards. 510

ECONOMIC DEVELOPMENT

45. (*HB4175) West Virginia Small Business Emergency Act. 515

EDUCATION

46. (HB4302) Relating to Elections for Public School Purposes. 519
47. (*HB4228) Repealing or Removing Certain Portions of
Education-Related Statutes That
Have Expired. 522
48. (*HB4316) Creating the Student Data Accessibility,
Transparency And Accountability Act. 540
49. (*HB4270) Relating to Salaries of Service Employees of the
State Camp and Conference Center Known as
Cedar Lakes Conference Center. 551
50. (HB4618) Establishing Transformative System of
Support for Early Literacy. 553
51. (HB4619) Authorizing Innovation School Districts. 558
52. (*HB4373) Relating to Driver Education Programs. 574
53. (HB4365) Relating to Employer Remittance and
Reporting of Teachers Retirement System
Member Contributions To the
Retirement Board. 579
54. (*HB4003) Granting Dual Jurisdiction to Counties
Where a Student Who Lives in One
County and Attends School in Another in
Order to Enforce Truancy Policies. 590

TABLE OF CONTENTS

55. (SB209) Allowing Special Needs Students to Participate in Graduation Ceremonies..... 593

56. (*HB4384) Requiring Teachers of Students with Exceptional Needs to Either Be Present At an Individualized Education Program Meeting or to Read and Sign a Copy of the Individualized Education Program Plan. 596

57. (*HB4608) Defining Dyslexia and Dyscalculia. 599

58. (*SB253) Clarifying Code for Community-Based Pilot Demonstration Project to Improve Outcomes For At-Risk Youth. 602

ELECTIONS

59. (*HB4473) Relating to Establishing Voting Precincts and Changing The Composition of Standard Receiving Boards. 606

60. (SB359) Removing Hand Canvassing Requirements of Electronic Voting Machines. 611

61. (*SB553) Relating to Certificates of Nomination for Elected Office. 613

EMERGENCY PREPAREDNESS

62. (*HB4147) Relating to Emergency Preparedness. 615

ENVIRONMENTAL PROTECTION

63. (HB4346) Establishing Separate Standards of Performance For Carbon Dioxide Emissions..... 624

ENVIRONMENTAL RESOURCES

64. (SB454) Defining Dam "Owner". 628

TABLE OF CONTENTS

ETHICS COMMISSION

65. (*HB4298) Changing the Experience Requirements of the
Composition of the Members of the West
Virginia Ethics Commission. 633

FINANCIAL INSTITUTIONS

66. (HB4372) Permitting the Commissioner of Financial
Institutions To Require the Filing of
Certain Reports, Data or Information
Directly with the Division of Financial
Institutions. 638

FIRE FIGHTING

67. (HB4460) Relating to Violating Provisions of the Civil
Service Law for Paid Fire Departments 640

FIRE PREVENTION AND CONTROL

68. (SB325) Providing State Fire Marshal Serve at Will and
Pleasure of Fire Commission. 641

FORESTRY

69. (*SB353) Relating to Timber Theft from State Forests. 643
70. (*SB357) Relating to Logging Sediment Control Act
Civil And Criminal Penalties 645

FUTURE FUND

71. (*SB461) Creating a Future Fund. 647

GINSING

72. (*SB535) Clarifying Definition of "Ginseng" 651

TABLE OF CONTENTS

HEALTH

73. (*HB4335) Relating to a Child's Right to Nurse. 660
74. (*SB602) Requiring Health Care Providers
Wear ID Badges. 661
75. (HB4332) Extending the Time That Certain Nonprofit
Community Groups Are Exempt from
The Moratorium on Creating
New Nursing Home Beds. 664
76. (*SB619) Exempting Certain Critical Access Hospitals from
Certificate of Need Requirement. 665
77. (*HB4312) Creating a Certification for Emergency Medical
Technician-Industrial. 666
78. (*HB3108) Relating to Criminal Background Checks on
Applicants For Employment by Nursing Homes. . . 671
79. (*HB4287) Administration of Health Maintenance Tasks. 674
80. (*HB4560) Relating to Reimbursement for Copies of Medical
Records. 687

HIGHER EDUCATION

81. (SB483) Renaming Administrative Heads of Potomac
Campus Of WVU and WVU Institute of
Technology. 691
82. (HB4457) Authorizing a Legislative Rule for the Council of
Community and Technical College Education
Regarding WV EDGE Program. 693
83. (*HB4496) Providing for the Allocation of Matching Funds
From Future Moneys Deposited into the
West Virginia Research Trust Fund. 696

TABLE OF CONTENTS

84. (SB394) Redesignating Health Sciences Scholarship
Program as Health Sciences Service Program. . . . 704

HOLIDAYS

85. (HB4135) Designating the First Thursday in May the West
Virginia Day of Prayer. 708

HOTEL OCCUPANCY TAX

86. (SB314) Appropriating Hotel Occupancy Tax
Proceeds to Counties With No More
Than One Hospital. 710

HOUSING

87. (*HB2387) Relating to Reasonable Accommodations
Under the West Virginia Fair Housing Act
For Persons With Disabilities Who Need
Assistive Animals. 717

HOUSING DEVELOPMENT

88. (*SB579) Creating Land Reuse Agency Authorization Act. . . . 727

HUMAN SERVICES

89. (*SB267) Ensuring State Courts' Jurisdiction of
Fraudulent or Unauthorized Purchasing
Card Use. 751

HUNTING AND FISHING

90. (HB4301) Allowing Limited Reciprocal Use of Hunting and
Fishing Licenses with the Commonwealth of
Kentucky. 753

TABLE OF CONTENTS

HUNTING LICENSES

91. (HB4431) Clarifying That Persons Who Possess Firearms,
Hunting Dogs or Other Indicia of Hunting
Do Not Necessarily Need to Have a
Hunting License. 757

INSURANCE

92. (*HB4432) Adopting Principle Based Reserving as the
Method By Which Life Insurance
Company Reserves Are Calculated. 759
93. (*HB4204) Relating to the Nonrenewal or Cancellation of
Property Insurance Coverage Policies in
Force For at Least Four Years. 819
94. (SB88) Relating to Claims for Total Loss and
Debris Removal Proceeds under Farmers'
Mutual Fire Insurance Companies. 822
95. (HB4359) Relating to Licensure of Managing
General Agents Of Insurers. 827
96. (*SB621) Authorizing Insurers Offer Flood Insurance. 829

JURIES

97. (*SB405) Requiring Presiding Judge's Permission to
Release Juror Qualification Forms after
Trial's Conclusion. 837
98. (SB470) Providing Completed Grand Jury Questionnaires
Are Confidential. 841
99. (SB586) Removing Unconstitutional Language
Regarding Jurors And Verdicts in Certain
Civil Litigation. 842

TABLE OF CONTENTS

JUVENILE DRUG COURT

100. (*SB252) Allowing Certain Expelled Students to
Return to School Through Juvenile
Drug Court. 843

JUVENILE SERVICES

101. (HB4437) Relating to the Division of Juvenile Services. 854
102. (HB4504) Providing for Sharing Juvenile Records in
Certain Circumstances with Another State. 858

LABOR

103. (*SB376) Requiring Certain Construction Workers
Complete OSHA Safety Program. 862
104. (*HB4392) Regulating Persons Who Perform Work
On Heating, Ventilating and Cooling
Systems and Fire Dampers. 865

LANDFILLS

105. (*HB4339) Ensuring That Moneys from the Solid Waste
Authority Closure Cost Assistance Fund Are
Available to Facilitate the Closure of the
Elkins-Randolph County Landfill and the
Webster County Landfill. 886

LEGISLATIVE RULES

106. (*SB181) Authorizing Department of Administration
Promulgate Legislative Rules. 890
107. (*SB133) Authorizing the DEP to Promulgate
Legislative Rules. 891

TABLE OF CONTENTS

108.	(*SB196)	Authorizing the Division of Rehabilitation Services To Promulgate Legislative Rules Relating to Ron Yost Personal Assistance Services Board.	898
109.	(*SB155)	Authorizing the DHHR to Promulgate Legislative Rules.....	899
110.	(*HB4067)	Authorizing the Department of Military Affairs And Public Safety to Promulgate Legislative Rules.....	907
111.	(*SB167)	Authorizing the Department of Revenue Promulgate To Legislative Rules.	914
112.	(*SB165)	Authorizing the Department of Transportation To Promulgate Legislative Rules.	930
113.	(*HB4039)	Authorizing Miscellaneous Boards and Agencies to Promulgate Legislative Rules.	932
114.	(*SB140)	Authorizing the Department of Commerce to Promulgate Legislative Rules.	951

LIENS

115.	(*HB4347)	Relating to Affirmative Defenses Against Mechanics' Liens.	960
------	-----------	---	-----

LOTTERY

116.	(HB4421)	Allowing the Lottery to Pay Prizes Utilizing Other Payment Methods in Addition to Checks.	962
117.	(*HB4217)	Relating to Medicaid Reports to the Legislature.....	963

MENTALLY ILL PERSONS

118.	(*HB4363)	Creating an Informal Dispute Resolution Process Available to Behavioral Health Providers.....	968
------	-----------	---	-----

TABLE OF CONTENTS

MILITARY AUTHORITY ACT

119. (*SB315) Clarifying Use of Certain Funds under Military Authority Act. 973

MINES AND MINING

120. (*HB4480) Relating to investment of the Acid Mine Drainage Fund.. . . . 976
121. (*SB623) Requiring Notification of Certain Substance Abuse Screening of Mine Personnel. 981
122. (*SB603) Relating to Testing for Presence of Methane in Underground Mines. 986
123. (*HB2954) Requiring That Members of the Mine Safety Technology Task Force Are Paid the Same Compensation as Members of the Legislature. 992

MINIMUM WAGE

124. (*HB4283) Raising the Minimum Wage. 995

MOTOR VEHICLES

125. (SB380) Redefining "All-terrain and Utility Terrain Vehicles". 1001
126. (*SB434) Eliminating Revocation Period for Certain DUI Offenders. 1020
127. (HB2477) Permitting Certain Auxiliary Lighting on Motorcycles. 1031
128. (*SB427) Relating to Motor Vehicle Insurance. 1033

MUNICIPALITIES

129. (*SB317) Relating to Municipal Firearm Laws. 1037

TABLE OF CONTENTS

- 130. (SB547) Relating to Number of Municipal Wards or Election Districts and Council Members. 1060
- 131. (*SB600) Relating to Municipal Ordinance Compliance Regarding Dwellings Unfit for Habitation And Vacant Buildings And Properties. 1062

NATURAL STREAMS PRESERVATION

- 132. (SB485) Exempting the DOH from Certain Permitting Requirements Of Natural Streams Preservation Act. 1072

NOTARIES PUBLIC

- 133. (*HB4012) Relating to the Revised Uniform Law on Notarial Acts. 1073

NURSING HOMES

- 134. (*HB4220) Relating to Waiver of Jury Trial in Claims Arising from Consumer Transactions. 1120

PREGNANT WORKERS' FAIRNESS

- 135. (*HB4284) Pregnant Workers' Fairness Act. 1121

PROBATION AND PAROLE

- 136. (*SB408) Relating to Parole. 1125

PROFESSIONS AND OCCUPATIONS

- 137. (*HB4188) Updating the Authority and Responsibility Of the Center for Nursing. 1135
- 138. (*HB4318) Continuing Education of Veterans Mental Health. 1144
- 139. (*HB4245) Relating to Anticipated Retirement Dates of Certain Health Care Professionals. 1148

TABLE OF CONTENTS

140.	(*HB4151)	Relating to Military Members and Their Spouses Who Obtain Licensure Through Professional Boards.	1150
141.	(*HB4278)	Rewriting the Procedure by Which Corporations May Obtain Authorization From the West Virginia Board of Medicine To Practice Medicine and Surgery.	1157
142.	(*SB425)	Relating to Licensure, Supervision and Regulation of Physician Assistants.	1162
143.	(*HB4538)	Relating to the Board of Dentistry.	1184
144.	(*SB507)	Relating to Board of Barbers and Cosmetologists.	1194

PUBLIC EMPLOYEES

145.	(*HB3156)	Granting a Labor Organization a Privilege From Being Compelled to Disclose Any Communication or Information the Labor Organization or Agent Received or Acquired in Confidence from an Employee.	1198
------	-----------	--	------

PUBLIC EMPLOYEES COMPENSATION

146.	(*SB322)	Providing State Compensate Officials, Officers and Employees Every Two Weeks with Certain Exceptions.	1202
------	----------	---	------

PUBLIC MONEYS

147.	(SB460)	Permitting School of Osteopathic Medicine Invest Certain Moneys in its Foundation.	1203
148.	(*SB499)	Making Prudent Investor Act Primary Standard of Care for Investment Management Board.	1206

TABLE OF CONTENTS

PUBLIC SAFETY

149. (*SB387) Clarifying Duly Authorized Officers
Have Legal Custody of Their Prisoners
While in WV..... 1211

PUBLIC SERVICE COMMISSION

150. (*HB2803) Requiring Electric Utilities to Implement
Integrated Resource Plans..... 1212

PURCHASING

151. (*SB356) Relating to Purchasing Reform..... 1214

RAIL LINES

152. (SB585) Removing Unconstitutional Language
Regarding Access to Rail Lines. 1237

RETIREMENT

153. (SB444) Relating to PERS. 1244
154. (SB452) Relating to TRS Annuity Calculation of Member
With Reciprocal Service Credit. 1257
155. (SB443) Relating to SPRS. 1260

REVENUE

156. (*SB393) Providing Governor May Borrow Revenue
Shortfall Reserve Funds
Prior to April 1, 2014. 1270

ROADS AND HIGHWAYS

157. (*HB4156) Electronic Toll Collection Act. 1275

TABLE OF CONTENTS

SCHOOL PERSONNEL

158. (*SB391) Providing Salary Increase for Teachers and School Service Personnel. 1292

STATE POLICE

159. (HB4256) Amending the Annual Salary Schedule for Members of the State Police. 1308
160. (*SB486) Establishing Certain Salary Increases for State Police Civilian and Forensic Lab Employees. 1313

STATE RAIL AUTHORITY

161. (*HB2606) Permitting the State Rail Authority to Set the Salary of the Executive Director. 1316

TAX INCREMENT FINANCING

162. (SB375) Excluding Certain Real and Personal Property From TIF Assessment. 1320

TAXATION

163. (SB601) Relating to Property Assessment Appeals. 1331
164. (*SB574) Clarifying Mobile Home Permanently Attached to Real Estate Is Not Personal Property under Certain Conditions. 1335
165. (*SB416) Relating to Tentative Appraisals of Natural Resources Property. 1337
166. (SB402) Permitting Tax Commissioner Recover Financial Institution Charges and Fees for All Forms of Payment. 1341

TABLE OF CONTENTS

167.	(*SB414)	Redirecting Nonprobate Appraisal Filings.	1347
168.	(*HB4449)	Including Proximity Detection Systems and Cameras Used on Continuous Mining Machines and Underground Haulage Equipment for Tax Credit Purposes.	1353
169.	(SB328)	Terminating Strategic Research and Development Tax Credit.	1357
170.	(HB4154)	Fixing a Technical Error Relating to the Motor Fuel Excise Tax.	1358
171.	(SB331)	Requiring Certain Accelerated Payment of Consumers Sales and Service and Use Tax and Employee Withholding Taxes.	1364
172.	(HB4549)	Clarifying the Regulation of Nonintoxicating Beer Brewers and Distributors, Agreements, Networks, Products, Brands and Extensions of a Line of Brands.	1372
173.	(HB4159)	Updating the Meaning of Federal Adjusted Gross Income and Certain Other Terms.	1388
174.	(SB327)	Updating Terms in Corporation Net Income Tax Act.	1390
175.	(SB456)	Extending Expiration Date for Health Care Provider Tax on Eligible Acute Care Hospitals.	1392

TOBACCO

176.	(*HB4237)	Prohibiting the Sale, Distribution and Use of Electronic Cigarettes, Vapor Products and Other Alternative Nicotine Products to Persons under the Age of Eighteen.	1396
------	-----------	--	------

TABLE OF CONTENTS

TOURISM DEVELOPMENT

177. (*HB4184) Relating to the West Virginia Tourism
Development Act. 1404

TRAFFIC REGULATIONS

178. (*SB378) Relating to Special Speed Limitations as to
Waste Service Vehicles. 1438
179. (*HB4304) Providing Rules for Motor Vehicles Passing
Bicycles on Roadways. 1446

UNIFORM COMMERCIAL CODE

180. (SB572) Relating to Financing Statements Covering
As-Extracted Collateral or Timber to Be Cut. . . . 1449

UNIFORM REAL PROPERTY TRANSFER

181. (SB3) Creating Uniform Real Property
Transfer on Death Act. 1451

UNIFORMED SERVICE OFFICERS' BENEFITS

182. (*HB4349) Clarifying Retirement Dependent Child
Scholarship And Burial Benefits under a
Qualified Domestic Relations Order. 1459

UTILITIES

183. (HB4601) Relating to Fiscal Management and
Regulation of Publicly-Owned Utilities. 1476

VETERANS

184. (*SB523) Providing for Additional State Veterans
Skilled Nursing Facility in Beckley. 1489

TABLE OF CONTENTS

185. (*HB4350) Providing for the Awarding of a West Virginia Veterans Medal and Ribbon, and a West Virginia Service Cross and Ribbon to Certain Qualifying West Virginia Veterans. . . . 1496

VETERANS' ASSISTANCE

186. (*HB4268) Relating to the Administration of Veterans' Assistance. 1497

WATER RESOURCE PROTECTION

187. (*SB373) Relating to Water Resources Protection. 1506

WELFARE FRAUD

188. (*SB395) Relating to Operation and Oversight of Certain Human Services Benefit Programs. 1584

WILDLIFE RESOURCES

189. (SB403) Regulating Importation and Possession of Certain Injurious Aquatic Species. 1589

WORKFORCE INVESTMENT COUNCIL

190. (*HB4196) Requiring the Workforce Investment Council to Provide Information and Guidance to Local Workforce Investment Boards That Would Enable Them to Better Educate Both Women And Men about Higher Paying Jobs. 1591

LOCAL - BROOKE COUNTY

191. (*HB4242) Increasing Gross Weight Limitations on Certain Roads in Brooke County. 1594

LOCAL - FAYETTEVILLE

192. (SB631) Extending Time for Fayetteville City Council to Meet as Levying Body. 1597

TABLE OF CONTENTS

LOCAL - SISTERSVILLE

193. (HB4259) Extending the Time for the City Council of the
City of Sistersville, Tyler County, to
Meet as a Levying Body. 1598

TABLE OF CONTENTS

ACTS

First Extraordinary Session, 2014

GENERAL LAWS

Chapter	Bill No.		Page
AGRICULTURE			
1.	(HB104)	Increasing the Annual Cap for Collections into the Land Division Special Revenue Account of the Department of Agriculture.	1601
APPROPRIATIONS			
2.	(*SB1002)	Expiring Funds in State Fund, General Revenue, And Making Supplementary Appropriation to Maps.	1602
3.	(*SB1003)	Expiring Funds in State Fund, General Revenue, And Making Supplementary Appropriation to Various Accounts.	1607
COUNTY COMMISSIONERS			
4.	(SB1005)	Authorizing Salary Increase for County Commissioners and Elected County Officials.	1629
EDUCATION			
5.	(SB1009)	Relating to Computation of Local Share for Public School Support Purposes.	1636

TABLE OF CONTENTS

PUBLIC MONEYS

6. (HB106) Relating to Debt Service on Bonds
Secured by the State Excess Lottery
Revenue Fund..... 1649

REVENUE TRANSFER

7. (HB101) Relating to the Transfer of Certain Revenues
Derived from Lottery Activities. 1659

SEXUAL ASSAULT EXAMINATION NETWORK

8. (HB108) Establishing a Regulatory System for Sexual
Assault Forensic Examinations..... 1667

SOLID WASTE MANAGEMENT

9. (HB107) Relating to the Disposal of Drill Cuttings and
Associated Drilling Waste Generated from
Well Sites at Commercial Solid
Waste Facilities..... 1672

TABLE OF CONTENTS

ACTS

Second Extraordinary Session, 2014

GENERAL LAWS

Chapter	Bill No.		Page
APPROPRIATIONS			
1.	(SB2003)	Supplementing and Amending Title II Appropriations from State Excess Lottery Revenue Fund.....	1685
BOAT DOCK AND MARINA SAFETY			
2.	(HB203)	Relating to Boat Dock and Marina Safety.....	1694
COURTESY PATROL FUND			
3.	(*SB2004)	Authorizing Transfer of Moneys to Courtesy Patrol Fund According to Expenditure Schedule Set by Budget Office.....	1696
MECHANICS' LIENS			
4.	(HB202)	Delaying the Effective date of the Affirmative Defense To an Action to Enforce a Mechanics' Lien.....	1697
MINIMUM WAGE			
5.	(HB201)	Relating to the Application of Minimum Wage and Maximum hour Standards.	1701
LOCAL - RICHWOOD			
6.	(SB2006)	Extending Time for Richwood Common Council to Meet as Levying Body.....	1710

MEMBERS OF THE HOUSE OF DELEGATES

REGULAR AND EXTRAORDINARY SESSIONS, 2014

OFFICERS

Speaker – Timothy R. Miley, Bridgeport
Clerk – Gregory M. Gray, Charleston
Sergeant-at-Arms – George McClaskie, Charleston
Doorkeeper – Tom Hively, Chesapeake

District	Name	Address	Occupation or Profession	Legislative Service
First.	Ronnie D. Jones (D)	Weirton	Retired Businessman	80 th - 81 st
	Randy Swartzmiller (D)	New Cumberland	Regulatory Compliance Management	75 th - 81 st
Second.	Phillip W. Diserio (D)	Follansbee	Electrician	Appt. 1/23/2012, 80 th ; 81 st
Third.	Ryan Ferns (R)	Wheeling	Physical Therapist	80 th - 81 st
	Erikka Storch (R)	Wheeling	Financial Officer	80 th - 81 st
Fourth.	David E. Evans (R)	Moundsville	Vocational Administrator	81 st
	Michael T. Ferro (D)	McMechen	Retired Educator/ Coach	79 th - 81 st
Fifth.	Dave Pethel (D)	Hundred	Educator	69 th - 71 st ; 74 th - 81 st
Sixth.	William Roger Romine (R)	Sistersville	Retired School Administrator	75 th - 81 st
Seventh.	Lynwood "Woody" Ireland (R)	Pullman	Retired Chemical Engineer/Farmer	78 th - 81 st
Eighth.	W. "Bill" Anderson, Jr. (R)	Williamstown	Educator	71 st - 81 st
Ninth.	Anna Border Sheppard (R)	Davisville	Educator	Appt. 6/21/2011, 80 th ; 81 st
Tenth.	Tom Azinger (R)	Vienna	Retired Insurance Agent	72 nd - 81 st
	John Ellem (R)	Parkersburg	Attorney	75 th - 81 st
	Daniel Poling (D)	Parkersburg	Business Representative	78 th - 81 st
Eleventh.	Bob Ashley (R)	Spencer	Insurance Agent	67 th - 73 rd ; 75 th - 81 st
Twelfth.	Steve Westfall (R)	Ripley	Insurance Agent	81 st
Thirteenth.	Scott Cadle (R)	Letart	Trucking/Excavating	81 st
	Brady Paxton (D)	Liberty	Educator	71 st ; Appt. 4/22/1999, 74 th ; 75 th - 81 st

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Fourteenth...	Jim Butler (R)	Henderson	Excavating- Contractor	81 st
Fifteenth.	Troy Andes (R)	Hurricane	Businessman	78 th - 81 st
Sixteenth.	Kevin J. Craig (D)	Huntington	Vice President - Business Development	75 th - 81 st
	Carol Miller (R)	Huntington	Small Business Owner/Buffalo Farmer	78 th - 81 st
	Jim Morgan (D)	Huntington	Retired	69 th - 70 th ; Appt. 2/23/2001, 75 th ; 76 th - 81 st
Seventeenth.	Doug Reynolds (D)	Huntington	Attorney	78 th - 81 st
	Dale Stephens (D)	Huntington	Businessman/ School Bus Operator	75 th ; 77 th - 81 st
Eighteenth.	Kelli Sobonya (R)	Huntington	Realtor	76 th - 81 st
Nineteenth.	Timothy R. Kinsey (D)	Lavalette	Retired Banker	Appt. 6/14/2013, 81 st
	Don C. Perdue (D)	Prichard	Pharmacist	74 th - 81 st
Twentieth.	Justin J. Marcum (D)	Williamson	Attorney	Appt. 1/18/2012, 80 th ; 81 st
Twenty-first.	Harry Keith White (D)	Gilbert	Businessman	Appt. 9/11/1992, 70 th ; 71 st - 81 st
Twenty-second.	Josh Barker (D)	Chapmanville	City Manager of Danville	Appt. 7/31/2013, 81 st
	Jeff Eldridge (D)	Alum Creek	Self Employed	77 th - 79 th ; 81 st
Twenty-third.	Joshua Nelson (R)	Danville	Coal Miner	81 st
Twenty-fourth.	Rupert Phillips, Jr. (D)	Lorado	Sales Manager	80 th - 81 st
	Teddy "Ted" Tomblin (D)	Logan	Businessman	81 st
Twenty-fifth.	Linda Goode Phillips (D)	Pineville	Retired Elementary School Counselor	79 th - 81 st
Twenty-sixth.	Clif Moore (D)	Thorpe	Administrator	77 th - 81 st
Twenty-seventh.	Joe Ellington (R)	Princeton	Physician	80 th - 81 st
	Marty Gearheart (R)	Bluefield	Businessman	80 th - 81 st
	John H. Shott (R)	Bluefield	Attorney	79 th , Resigned 5/2010; 81 st
Twenty-eighth.	Roy G. Cooper (R)	Wayside	Retired U. S. Navy	81 st
	John D. O'Neal, IV (R)	Beckley	Businessman	80 th - 81 st
Twenty-ninth.	Ricky Moye (D)	Crab Orchard	Businessman/ School Bus Operator	78 th - 81 st
Thirtieth.	Linda Sumner (R)	Beckley	Retired Educator	76 th - 81 st
Thirty-first.	Lynne Carden Arvon (R)	Beckley	Medical Sales/ Social Services	81 st

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Thirty-second.	David G. Perry (D)	Oak Hill	Educator	75 th - 81 st
	John Pino (D)	Oak Hill	Contractor	67 th ; 71 st - 78 th ; 80 th - 81 st
	Margaret Anne Staggers (D)	Fayetteville	Emergency Physician/Paramedic	78 th - 81 st
Thirty-third.	David A. Walker (D)	Clendenin	Heavy Equipment Operator	79 th - 81 st
			Railroad Engineer	73 rd - 81 st
Thirty-fourth.	Brent Boggs (D)	Gassaway	Railroad Engineer	73 rd - 81 st
Thirty-fifth.	John B. McCuskey (R)	Charleston	Attorney	81 st
	Eric Nelson (R)	Charleston	Businessman	80 th - 81 st
	Suzette Raines (R)	St. Albans	Self Employed/Consultant	81 st
Thirty-sixth.	Doug Skaff, Jr. (D)	South Charleston	Business Owner	79 th - 81 st
	Nancy Peoples Guthrie (D)	Charleston	Owner/ President	78 th - 81 st
	Mark Hunt (D)	Charleston	Attorney	72 nd - 74 th ; 77 th - 81 st
	Danny Wells (D)	Charleston	Retired Executive	
			Sports Editor	77 th - 81 st
Thirty-seventh.	Meshea L. Poore (D)	Charleston	Attorney	Appt. 12/18/2009, 79 th ; 80 th - 81 st
Thirty-eighth.	Patrick Lane (R)	Cross Lanes	Attorney/Entrepreneur	77 th - 81 st
			Insurance	
Thirty-ninth.	Ron Walters (R)	Charleston	Executive/President	71 st - 73 rd ; 75 th - 81 st
Fortieth.	Tim Armstead (R)	Elkview	Attorney	Appt. 9/5/1998, 73 rd ; 74 th - 81 st
Forty-first.	Adam R. Young (D)	Summersville	Educator	81 st
Forty-second.	George "Boogie" Ambler (R)	Fort Springs	Businessman/Educator/Farmer	81 st
			Internet Entrepreneur	75 th - 81 st
Forty-third.	Denise L. Campbell (D)	Elkins	Licensed Nursing	
			Home Administrator	80 th - 81 st
	William G. Hartman (D)	Elkins	Retired Independent	
			Insurance Agent	76 th - 81 st
Forty-fourth.	Dana L. Lynch (D)	Webster Springs	Retired	81 st
Forty-fifth.	Bill Hamilton (R)	Buckhannon	Independent Insurance	
			Agency Owner	76 th - 81 st
Forty-sixth.	Peggy Donaldson Smith (D)	Weston	Attorney	79 th - 81 st
Forty-seventh.	Mary M. Poling (D)	Moatsville	Retired Educator	75 th - 81 st
Forty-eighth.	Ron Fragale (D)	Clarksburg	Educator	70 th - 73 rd ; 75 th - 80 th ; Appt. 2/1/2013, 81 st
			Airline Operations	81 st
			Educator/Coach	76 th - 81 st
	Tim Miley (D)	Bridgeport	Attorney	77 th - 81 st

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Forty-ninth. . .	Mike Manypenny (D).	Grafton.	Agricultural/ Environmental Consultant.	79 th - 81 st
Fiftieth.	Michael Caputo (D).	Fairmont.	UMWA, District 31 Vice-President.	73 rd - 81 st
	Linda Longstreth (D).	Fairmont.	Administrator/ Educator.	77 th - 81 st
	Tim Manchin (D).	Fairmont.	Attorney.	76 th - 81 st
Fifty-first.	Anthony Barill (D).	Morgantown.	Retired.	80 th - 81 st
	Barbara Evans Fleischauer (D).	Morgantown.	Attorney/Small Business Owner.	72 nd - 76 th ; 78 th - 81 st
	Cindy Frich (R).	Morgantown.	Sales/Volunteer Home Care.	76 th - 77 th , 81 st
	Charlene Marshall (D).	Morgantown.	Retired Data Technician.	74 th - 75 th ; 76 th - 81 th
	Amanda Pasdon (R).	Morgantown.	Business Development Director.	80 th - 81 st
Fifty-second. . .	Larry A. Williams (D).	Tunnelton.	Businessman/ Farmer.	Appt. 10/8/1993, 71 st ; 72 nd - 81 st
Fifty-third. . . .	Randy E. Smith (R).	Terra Alta.	Coal Miner.	81 st
Fifty-fourth. . .	Allen V. Evans (R).	Dorcas.	Businessman/ Farmer.	70 th - 81 st
Fifty-fifth. . . .	Isaac Sponaugle (D).	Franklin.	Attorney.	81 st
Fifty-sixth. . . .	Gary G. Howell (R).	Keyser.	Small Business Owner.	80 th - 81 st
Fifty-seventh. . .	Ruth Rowan (R).	Points.	Retired Educator.	77 th - 81 st
Fifty-eighth. . .	Daryl E. Cowles (R).	Berkeley Springs.	Businessman.	78 th - 81 st
Fifty-ninth. . . .	Larry D. Kump (R).	Falling Waters.	Retired Public Administrator.	80 th - 81 st
Sixtieth.	Larry W. Faircloth (R).	Inwood.	Business Consulting and Marketing.	81 st
Sixty-first. . . .	Jason Barrett (D).	Martinsburg.	Restaurant Owner.	81 st
Sixty-second. . .	John Overington (R).	Martinsburg.	Public Relations/ Former Educator.	67 th - 81 st
Sixty-third. . . .	Michael "Mike" Folk (R).	Martinsburg.	Airline Pilot/Farmer.	81 st
Sixty-fourth. . .	Eric L. Householder (R).	Martinsburg.	Small Business Owner.	80 th - 81 st
Sixty-fifth. . . .	Tiffany Elizabeth Lawrence (D).	Charles Town.	Marketing and Public Relations.	79 th - 81 st
Sixty-sixth. . . .	Paul Espinosa (R).	Charles Town.	General Manager, Frontier Communications.	81 st
Sixty-seventh. .	Stephen Skinner (D).	Shepherdstown.	Attorney.	81 st

MEMBERS OF THE SENATE

REGULAR AND EXTRAORDINARY SESSIONS, 2014

OFFICERS

President – Jeffrey V. Kessler, Glen Dale

Clerk – Joseph M. Minard, Clarksburg

Sergeant-at-Arms – Howard L. Wellman, Bluefield

Doorkeeper – Tony Gallo, Charleston

District	Name	Address	Occupation or Profession	Legislative Service
First	Robert J. Fitzsimmons (D)	Wheeling	Attorney	Appt. 1/26/2012, 81 st
	Jack Yost (D)	Wellsburg	Retired	(House 76 th - 78 th); 79 th - 81 st
Second	Larry J. Edgell (D)	New Martinsburg	Educator	74 th - 81 st
	Jeffrey V. Kessler (D)	Glen Dale	Attorney	Appt. 11/1997, 73 rd ; 74 th - 81 st
Third	Donna J. Boley (R)	St. Marys	Retired	Appt. 5/14/1985, 67 th ; 68 th - 81 st
	David C. Nohe (R)	Vienna	Mayor, City of Vienna	80 th - 81 st
Fourth	Mitch B. Carmichael (R)	Ripley	Director of Commercial Sales	(House 75 th - 80 th); 81 st
	Mike Hall (R)	Winfield	Businessman	(House 72 nd - 77 th); 78 th - 81 st
Fifth	Evan H. Jenkins (D)	Huntington	Attorney/Assoc Executive	76 th - 81 st
	Robert H. Plymale (D)	Ceredo	Businessman	71 st - 81 st
Sixth	H. Truman Chafin (D)	Williamson	Attorney	66 th - 81 st
	Bill Cole (R)	Bluefield	Automobile Dealer	(House Appt. 5/28/2010, 79 th); 81 st
Seventh	Art Kirkendoll (D)	Chapmanville	Self Employed	Appt. 11/14/2011, 80 th ; 81 st
	Ron Stollings (D)	Madison	Physician	78 th - 81 st
Eighth	Chris Walters (R)	Poca	Insurance	81 st
	Erik P. Wells (D)	Charleston	Public Relations/ Media Consultant	78 th - 81 st
Ninth	Mike Green (D)	Daniels	Businessman/ Real Estate Developer	78 th - 81 st
	Daniel Hall (D)	Oceana	Insurance Investigator	(House 79 th - 80 th); 81 st

MEMBERS OF THE SENATE - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Tenth.....	William Laird IV (D).....	Oak Hill.....	Retired/ Self-Employed.....	(House 73 rd - 75 th); 79 th - 81 st
	Ronald F. Miller (D).....	Lewisburg.....	Self-Employed.....	80 th - 81 st
Eleventh.....	Clark Barnes (R).....	Randolph.....	Businessman.....	77 th - 81 st
	Gregory A. Tucker (D).....	Summersville.....	Attorney.....	80 th - 81 st
Twelfth.....	Samuel J. Cann (D).....	Bridgeport.....	Businessman.....	(House 72 nd - 81 st); Appt. 1/16/2013, 81 st
	Douglas Facemire (D).....	Sutton.....	Grocery Chain Owner.....	79 th - 81 st
Thirteenth....	Robert D. Beach (D).....	Morgantown.....	Executive Director of College Foundation.....	(House Appt. 5/1998, 73 rd ; 74 th - 79 th); 80 th - 81 st
	Roman W. Prezioso, Jr. (D).....	Fairmont.....	Administrator.....	(House 69 th - 72 nd); 73 rd - 81 st
Fourteenth....	Dave Sypolt (R).....	Kingwood.....	Professional..... Land Surveyor	78 th - 81 st
	Bob Williams (D).....	Grafton.....	Real Estate..... Appraiser	79 th - 81 st
Fifteenth.....	Craig P. Blair (R).....	Martinsburg.....	Small Business Owner/President.....	(House 76 th - 79 th); 81 st
	Donald H. Cookman (D).....	Romney.....	Retired Circuit Judge.....	Appt. 1/23/2013, 81 st
Sixteenth.....	Herb Snyder (D).....	Shenandoah Junction.....	Director, Environmental Chemistry.....	73 rd - 76 th ; 79 th - 81 st
	John R. Unger II (D).....	Martinsburg.....	Businessman/ Economic Development.....	74 th - 81 st
Seventeenth..	Brooks F. McCabe, Jr. (D).....	Charleston.....	Real Estate Developer.....	74 th - 81 st
	Corey Palumbo (D).....	Charleston.....	Attorney.....	(House 76 th - 78 th); 79 th - 81 st

HOUSE OF DELEGATES COMMITTEES

COMMITTEES OF THE HOUSE OF DELEGATES
Regular Session, 2014

STANDING

AGRICULTURE AND NATURAL RESOURCES

Walker (*Chair of Agriculture*), Manypenny (*Vice Chair of Agriculture*), Pino (*Chair of Natural Resources*), R. Phillips (*Vice Chair of Natural Resources*), Campbell, Diserio, Guthrie, M. Poling, Sponaule, Swartzmiller, Tomblin, Wells, Williams, A. Evans (*Minority Chair of Agriculture*), Romine (*Minority Vice Chair of Agriculture*), Hamilton (*Minority Chair of Natural Resources*), Ireland (*Minority Vice Chair of Natural Resources*), Ambler, Anderson, Border, Canterbury, Ellem, Miller and Overington.

BANKING AND INSURANCE

Moore (*Chair of Banking*), Campbell (*Vice Chair of Banking*), Guthrie (*Chair of Insurance*), Hartman (*Vice Chair of Insurance*), Barrett, Hunt, Iaquina, Kinsey, Morgan, Perry, R. Phillips, Reynolds, Tomblin, Azinger (*Minority Chair of Banking*), E. Nelson (*Minority Vice Chair of Banking*), Ashley (*Minority Chair of Insurance*), Walters (*Minority Vice Chair of Insurance*), Andes, Frich, McCuskey, O'Neal, Pasdon, Shott and Westfall.

EDUCATION

M. Poling (*Chair*), Perry (*Vice Chair*), Barill, Barrett, Campbell, Fragale, Lawrence, Moye, Pethtel, Tomblin, Walker, Williams, Young, Pasdon (*Minority Chair*), Sumner (*Minority Vice Chair*), Ambler, Butler, Cooper, Espinosa, D. Evans, Hamrick, Raines, Rowan and Westfall.

HOUSE OF DELEGATES COMMITTEES

ENERGY

Craig (*Chair*), Caputo (*Vice Chair*), Barker, Diserio, Eldridge, Fragale, Kinsey, Longstreth, Marcum, L. Phillips, R. Phillips, D. Poling, Skaff, Walker, Andes (*Minority Chair*), Shott (*Minority Vice Chair*), Anderson, Arvon, Butler, Cadle, Frich, Ireland, McCuskey, R. Smith and Sumner.

FINANCE

Boggs (*Chair*), Reynolds (*Vice Chair*), Craig, Guthrie, Iaquina, Marshall, Moye, Perdue, Pethtel, L. Phillips, R. Phillips, D. Poling, Skaff, Williams, Anderson (*Minority Chair*), E. Nelson (*Minority Vice Chair*), Andes, Ashley, Canterbury, Cowles, A. Evans, Gearheart, Miller, Storch and Walters

GOVERNMENT ORGANIZATION

Morgan (*Chair*), Stephens (*Vice Chair*), Barker, Caputo, Diserio, Eldridge, Hartman, Jones, Kinsey, Paxton, P. Smith, Staggers, Swartzmiller, Howell (*Minority Chair*), Border (*Minority Vice Chair*), Arvon, Azinger, Cadle, Faircloth, Ferns, Folk, Kump, J. Nelson, Romine and R. Smith.

HEALTH AND HUMAN RESOURCES

Perdue (*Chair*), Fleischauer (*Vice Chair*), Barker, Campbell, Diserio, Eldridge, Guthrie, Kinsey, Lawrence, Marshall, Moore, Poore, Staggers, Ellington (*Minority Chair*), Householder (*Minority Vice Chair*), Arvon, Border, Cowles, Faircloth, Lane, Miller, Pasdon, Rowan and Sobonya.

HOUSE OF DELEGATES COMMITTEES

INDUSTRY AND LABOR

D. Poling (*Chair*), Diserio (*Vice Chair*), Caputo, Ferro, Guthrie, Longstreth, Lynch, Marshall, Moore, Poore, Skinner, Walker, Young, Sobonya (*Minority Chair*), Overington (*Minority Vice Chair*), Andes, Azinger, Faircloth, Folk, Householder, Howell, Kump, J. Nelson, Romine and Storch.

JUDICIARY

Manchin (*Chair*), Hunt (*Vice Chair*), Ferro, Fleischauer, Longstreth, Lynch, Manypenny, Marcum, Moore, Pino, Poore, Skinner, Sponaugle, Wells, Ellem (*Minority Chair*), Lane (*Minority Vice Chair*), Frich, Hamilton, Householder, Ireland, McCuskey, O'Neal, Overington, Shott and Sobonya.

PENSIONS AND RETIREMENT

Pethtel (*Chair*), Jones (*Vice Chair*), Craig, Lynch, Canterbury (*Minority Chair*), Kump (*Minority Vice Chair*) and Ellem.

POLITICAL SUBDIVISIONS

Lawrence (*Chair*), Fragale (*Vice Chair*), Barill, Fleischauer, Hartman, Hunt, Jones, Marcum, Morgan, Moye, Perry, Sponaugle, Williams, Sumner (*Minority Chair*), Cowles (*Minority Vice Chair*), Cooper, Ellington, Espinosa, Ferns, Gearheart, Hamilton, Hamrick, Lane, McCuskey and Pasdon.

ROADS AND TRANSPORTATION

Staggers (*Chair*), L. Phillips (*Vice Chair*), Barker, Barill, Longstreth, Lynch, Marcum, Moye, D. Poling, P. Smith, Stephens, Walker, Wells, Young, Cowles (*Minority Chair*), Gearheart (*Minority Vice Chair*), Ambler, Arvon, Butler, Cadle, Espinosa, D. Evans, Hamrick, Howell and Shott.

HOUSE OF DELEGATES COMMITTEES

RULES

Miley (*Chair*), Boggs, Caputo, Manchin, Marshall, Morgan, Paxton, M. Poling, Swartzmiller, White, Anderson, Armstead, Ashley, Cowles, Lane, Overington, Sobonya and Sumner.

SENIOR CITIZEN ISSUES

Williams (*Chair*), Moye (*Vice Chair*), Campbell, Ferro, Manypenny, Marshall, Moore, Perdue, Perry, Pethtel, Pino, Stephens, Young, Rowan (*Minority Chair*), O'Neal (*Minority Vice Chair*), Armstead, Ashley, Border, Ellem, Faircloth, Ferns, Householder, Raines, Sobonya and Westfall.

SMALL BUSINESS, ENTREPRENEURSHIP AND ECONOMIC DEVELOPMENT

Scaff (*Chair*), Barrett (*Co-Vice Chair*), Hartman (*Co-Vice Chair*), Fleischauer, Manchin, Manypenny, Morgan, L. Phillips, Pino, Reynolds, Skinner, Sponaugle, White, Williams, Miller (*Minority Chair*), Ellington (*Minority Vice Chair*), Ashley, Azinger, A. Evans, Hamilton, E. Nelson, Raines, Storch, Walters and Westfall.

VETERANS' AFFAIRS AND HOMELAND SECURITY

Iaquinta (*Chair of Veterans' Affairs*), Longstreth (*Vice Chair of Veterans' Affairs*), Paxton (*Chair of Homeland Security*), Eldridge (*Vice Chair of Homeland Security*), Barill, Ferro, Fleischauer, Jones, Lawrence, Pethtel, P. Smith, Staggers, Stephens, Azinger (*Minority Chair of Veterans' Affairs*), Rowan (*Minority Vice Chair Veterans' Affairs*), Ashley (*Minority Chair of Homeland Security*), Storch (*Minority Vice Chair of Homeland Security*), Armstead, Cadle, Cooper, D. Evans, Folk, Howell, E. Nelson and J. Nelson.

ENROLLED BILLS

Wells (*Chair*), Barill (*Vice Chair*), Ferro and Overington.

SENATE COMMITTEES

COMMITTEES OF THE SENATE
Regular Session, 2014

STANDING

AGRICULTURE AND RURAL DEVELOPMENT

Miller (*Chair*), Williams (*Vice Chair*), Beach, Cann, Cookman, D. Hall, Laird, Tucker, Carmichael, Nohe and Sypolt.

BANKING AND INSURANCE

Tucker (*Chair*), Fitzsimmons (*Vice Chair*), Chafin, Facemire, Green, D. Hall, Jenkins, McCabe, Palumbo, Prezioso, M. Hall, Nohe and Walters.

CONFIRMATIONS

Green (*Chair*), Facemire (*Vice Chair*), Chafin, Miller, Plymale, Snyder, Yost, Cole and Sypolt.

ECONOMIC DEVELOPMENT

Williams (*Chair*), Cann (*Vice Chair*), Beach, Cookman, Kirkendoll, McCabe, Prezioso, Snyder, Stollings, Wells, Barnes, Blair, Sypolt and Walters.

EDUCATION

Plymale (*Chair*), Wells (*Vice Chair*), Beach, Chafin, Edgell, D. Hall, Laird, Stollings, Tucker, Unger, Barnes, Boley, Carmichael and Cole.

ENERGY, INDUSTRY AND MINING

Facemire (*Chair*), Kirkendoll (*Vice Chair*), Beach, Cann, Green, Jenkins, Plymale, Snyder, Stollings, Yost, Barnes, Nohe and Sypolt.

SENATE COMMITTEES

ENROLLED BILLS

Cookman (*Chair*), Edgell, Fitzsimmons, Palumbo and Cole.

FINANCE

Prezioso (*Chair*), Facemire (*Vice Chair*), Chafin, Edgell, Green, Laird, McCabe, Plymale, Stollings, Unger, Wells, Yost, Barnes, Blair, Boley, M. Hall and Sypolt.

GOVERNMENT ORGANIZATION

Snyder (*Chair*), Miller (*Vice Chair*), Cann, Cookman, Fitzsimmons, Green, Jenkins, Kirkendoll, Williams, Yost, Blair, Boley, Cole and Sypolt.

HEALTH AND HUMAN RESOURCES

Stollings (*Chair*), Jenkins (*Vice Chair*), Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Tucker, Yost, Boley, M. Hall and Walters.

INTERSTATE COOPERATION

Kirkendoll (*Chair*), Cookman (*Vice Chair*), D. Hall, Palumbo, Wells, Blair and Nohe.

JUDICIARY

Palumbo (*Chair*), Tucker (*Vice Chair*), Beach, Cann, Cookman, Fitzsimmons, D. Hall, Jenkins, Kirkendoll, Miller, Snyder, Unger, Williams, Carmichael, Cole, Nohe and Walters.

LABOR

Yost (*Chair*), D. Hall (*Vice Chair*), Chafin, Facemire, Fitzsimmons, McCabe, Miller, Wells, Barnes, Blair and Walters.

SENATE COMMITTEES

MILITARY

Wells (*Chair*), Yost (*Vice Chair*), Edgell, Fitzsimmons, Jenkins, Laird, Tucker, Boley and Carmichael.

NATURAL RESOURCES

Laird (*Chair*), Edgell (*Vice Chair*), Beach, Cookman, Facemire, Green, McCabe, Prezioso, Snyder, Williams, M. Hall, Nohe and Walters.

PENSIONS

Jenkins (*Chair*), McCabe (*Vice Chair*), Cann, Chafin, Edgell, Carmichael and M. Hall.

RULES

Kessler (*Chair*), Edgell, Palumbo, Plymale, Prezioso, Snyder, Stollings, Unger, Barnes, Boley and M. Hall.

TRANSPORTATION AND INFRASTRUCTURE

Beach (*Chair*), Kirkendoll (*Vice Chair*), Facemire, Fitzsimmons, McCabe, Plymale, Williams, Barnes and Cole.

LEGISLATURE OF WEST VIRGINIA

ACTS

SECOND REGULAR SESSION, 2014

CHAPTER 1

**(S. B. 350 - By Senators Miller, Stollings, Snyder,
Plymale, Laird, D. Hall, Unger and Beach)**

[Passed March 8, 2014; in effect from passage.]
[Approved by the Governor on March 24, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-11, relating to the Rural Rehabilitation Loan Program; requiring annual reporting; and authorizing rulemaking.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §19-1-11, to read as follows:

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-11. Rural Rehabilitation Loan Program.

1 (a) The Rural Rehabilitation Loan Program is an important
2 tool for the Commissioner of Agriculture to promote investment
3 in the agricultural industry in the state. Rules are needed for the
4 loan program to remain viable.

5 (b) The commissioner shall propose emergency and
6 legislative rules for approval in accordance with article three,

7 chapter twenty-nine-a of this code. The rules shall, at a
8 minimum:

9 (1) Establish minimum requirements and qualifications for
10 the loan committee, including the addition of public members
11 who have agricultural or business loan experience;

12 (2) Prohibit department employees and loan committee
13 members, and their immediate family members, from receiving
14 program loans;

15 (3) Establish minimum financial requirements for receiving
16 a program loan;

17 (4) Require loans to be used for agricultural or related
18 purposes;

19 (5) Require collateral sufficient to secure the loan;

20 (6) Establish policies for the application, applicable interest
21 rates, delinquencies, refinancing, collection proceedings,
22 collateral requirements and other aspects of the loan program;

23 (7) Require the department to advertise the loan program to
24 the public, including information on the department's website
25 and in the department's market bulletin; and

26 (8) Transfer the servicing of the program loans to a financial
27 institution via competitive bid or to the State Treasurer's office.

28 (c) The commissioner shall file an annual report to the Joint
29 Committee on Government and Finance regarding the loan
30 program, including information about the loans awarded, loans
31 repaid, loans outstanding, interest rates, delinquency and
32 collections, and other pertinent data.

CHAPTER 2

**(Com. Sub. for S. B. 469 - By Senators Miller, Yost, Wells,
Carmichael, Snyder, Nohe, Williams, Jenkins, D. Hall,
Edgell, Stollings, Laird and Sypolt)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-12, relating to the Veterans and Warriors to Agriculture Program; granting the Department of Agriculture the authority to integrate veterans into the field of agriculture; creating the Veterans and Warriors to Agriculture special revenue account and fund; exempting the Department of Agriculture from certain purchasing requirements; requiring state departments to work together; and permitting rulemaking.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §19-1-12, to read as follows:

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-12. Veterans and Warriors to Agriculture Program and fund.

1 (a) *Legislative findings.* —

2 West Virginians have a longstanding tradition of service in
3 the armed forces of the United States. Many veterans suffer from
4 physical and emotional afflictions and are often unable to find
5 gainful employment upon returning from combat. Exploring

6 opportunities to engage West Virginia's veterans in agriculture
7 is beneficial to the health and welfare of veterans, as well as to
8 the future of West Virginia's agricultural economy.

9 (b) *Veterans and Warriors to Agriculture Program.* —

10 The Department of Agriculture shall develop a Veterans and
11 Warriors to Agriculture Program to integrate veterans into the
12 field of agriculture, and support veterans currently working in
13 agriculture. These programs may include, but are not limited to,
14 using post-mine land for agricultural development, promoting
15 high tunnel crops and production, expanding the apiary industry,
16 developing cottage industries, exploring niche crops, raising
17 more livestock, increasing the aquaculture industry and helping
18 veterans promote their agricultural products through farmers
19 markets and cooperatives. The department, Department of
20 Veterans' Assistance and the state's Adjutant General shall work
21 together to recruit and train eligible veterans, and develop and
22 support the program.

23 (c) *Veterans and Warriors to Agriculture Fund.* — There is
24 hereby created in the State Treasury a special revenue account,
25 designated the Veterans and Warriors to Agriculture Fund. The
26 fund shall consist of income from leasing the department's
27 property for the program, surplus funds which may be
28 transferred from the fund created by section six-a, article twelve-
29 a of this chapter, gifts, grants and donations, and legislative
30 appropriations which may be made to support the program.
31 Expenditures from the fund shall be used exclusively, in
32 accordance with appropriations by the Legislature, to pay costs,
33 fees and expenses necessary to administer the Veterans and
34 Warriors to Agriculture Program: *Provided*, That for fiscal year
35 ending June 30, 2015, expenditures are authorized from
36 collections rather than pursuant to an appropriation by the
37 Legislature.

38 (d) Notwithstanding any provision in this code to the
39 contrary, should the Department of Agriculture deem it
40 necessary to provide land for activities within this program, it is
41 exempt from the purchasing requirements as they relate to the
42 competitive leasing of state property.

43 (e) The commissioner may propose emergency or legislative
44 rules for approval in accordance with the provisions of article
45 three, chapter twenty-nine-a of this code to effectuate the
46 provisions of this section.



CHAPTER 3

**(Com. Sub. for H. B. 3011 - By Delegates Manypenny, Walker,
Swartzmiller, Canterbury and Ambler)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 21, 2014]

AN ACT to amend and reenact §19-12E-5 and §19-12E-9 of the Code of West Virginia, 1931, as amended, all relating to removing the provision that requires an applicant to meet federal requirements concerning the production, distribution and sale of industrial hemp prior to being licensed to grow hemp for industrial purposes in the state or as part of a complete defense to a prosecution for the possession or cultivation of marijuana; and limiting the cultivation of industrial hemp to research conducted by the Commissioner of Agriculture and institutions of higher learning authorized by the commissioner to do so.

Be it enacted by the Legislature of West Virginia:

That §19-12E-5 and §19-12E-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**§19-12E-5. Industrial hemp - licensing.**

1 (a) A person growing industrial hemp for commercial
2 purposes shall apply to the commissioner for license on a form
3 prescribed by the commissioner.

4 (b) The application for a license must include the name and
5 address of the applicant and the legal description of the land area
6 to be used for the production of industrial hemp.

7 (c) The commissioner shall require each first-time applicant
8 for a license to file a set of the applicant's fingerprints, taken by
9 a law-enforcement officer, and any other information necessary
10 to complete a statewide and nationwide criminal history check
11 with the criminal investigation bureau of the department of
12 justice for state processing and with the federal Bureau of
13 Investigation for federal processing. All of the costs associated
14 with the criminal history check are the responsibility of the
15 applicant. Criminal history records provided to the department
16 under this section are confidential. The commissioner may use
17 the records only to determine if an applicant is eligible to receive
18 a license for the production of industrial hemp.

19 (d) If the applicant has completed the application process to
20 the satisfaction of the commissioner, the commissioner shall
21 issue the license which is valid until December 31, of the year of
22 application. An individual licensed under this section is
23 presumed to be growing industrial hemp for commercial
24 purposes.

25 (e) Notwithstanding any provision of this article or the
26 provisions of chapter sixty-a of this code to the contrary, only
27 the Department of Agriculture and state institutions of higher
28 learning licensed and authorized by the commissioner to do so
29 may lawfully grow or cultivate industrial hemp in this state.

§19-12E-9. Defense for possession or cultivation of marijuana.

1 (a) It is a complete defense to a prosecution for the
2 possession or cultivation of marijuana pursuant to the provisions
3 of article four, chapter sixty-a of this code that defendant was
4 growing industrial hemp pursuant to the provisions of this
5 article.

6 (b) This section is not a defense to a charge of criminal sale
7 or distribution of marijuana as defined in chapter sixty-a of this
8 code which does not meet the definition of industrial hemp.

CHAPTER 4

**(Com. Sub. for S. B. 365 - By Senators Miller,
Snyder and Williams)**

[Passed March 8, 2014; in effect from passage.]
[Approved by the Governor on March 26, 2014]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-21A-4a, relating to administration of West Virginia Conservation Agency programs; providing that elected conservation district supervisors have their applications to participate in West Virginia Conservation Agency programs evaluated and considered by other conservation districts; and requiring the State Conservation Committee to propose rules for legislative approval.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §19-21A-4a, to read as follows:

ARTICLE 21A. CONSERVATION DISTRICTS.**§19-21A-4a. Administration of West Virginia Conservation Agency programs; legislative rules.**

1 (a) If an elected conservation district supervisor applies or
2 intends to apply to participate in a West Virginia Conservation
3 Agency program, then all applications for that particular
4 program in that particular district shall be evaluated and
5 approved by a conservation district other than the one being
6 supervised by the elected conservation district supervisor.

7 (b) The State Conservation Committee shall propose rules
8 for legislative approval, pursuant to article three, chapter twenty-
9 nine-a of this code, to establish:

10 (1) The criteria, ranking and standards required for an
11 applicant to qualify to participate in West Virginia Conservation
12 Agency programs;

13 (2) A process to disclose the recipients of the award; and

14 (3) The process for an unsuccessful qualified applicant to
15 appeal an award.

CHAPTER 5

**(Com. Sub. for H. B. 4402 - By Delegates Manchin, Skinner,
Sponaugle, Longstreth, Marcum, Lynch, Wells,
Caputo, Marshall and Barrett)**

[Passed March 4, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-6-26, relating to the

conditional discharge for first offense underage purchase, consumption, sale, service, possession of nonintoxicating beer or alcoholic liquor or obtaining nonintoxicating beer or alcoholic liquor by misrepresentation of age; allowing for probation in lieu of conviction under certain circumstances; permitting the court to enter an adjudication upon violation of probation; providing for discharge and dismissal if terms of probation are met; stating the effect of the discharge and dismissal; prohibiting prosecution or penalty for failure of the person to disclose or acknowledge an arrest or trial that was discharged and dismissed pursuant to this section; precluding a person from using the benefits of this section more than once; permitting expungement of records under certain circumstances; requiring payment of regular court costs by persons whose case is disposed of pursuant to this section; and ensuring court costs assessed are distributed according to code.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §60-6-26, to read as follows:

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-26. Conditional discharge for first offense of certain offenses related to nonintoxicating beer or alcoholic liquor.

1 (a) When a person pleads guilty to or is found guilty of a
2 violation of subdivision (1), subsection (a), section nineteen,
3 article sixteen, chapter eleven of this code; subsection (b),
4 section nineteen, article sixteen, chapter eleven of this code;
5 subsection (a), section twenty-two-a, article three of this chapter;
6 subdivision (1), subsection (a), section twenty-four, article three-
7 a of this chapter; subsection (b), section twenty-four, article
8 three-a of this chapter; subsection (a) or (b), section twelve-a,
9 article seven of this chapter; or subsection (a) or (b), section
10 twenty-a, article eight of this chapter, the court, without entering
11 a judgment of guilt and with the consent of the accused, may
12 defer further proceedings and place him or her on probation upon

13 terms and conditions it considers appropriate, if the person has
14 not previously been convicted of:

15 (1) Any of the offenses contained in the code provisions
16 referenced in this subsection; or

17 (2) Any statute of the United States or of any state relating
18 to underage purchase, consumption, sale, service or possession
19 of nonintoxicating beer or alcoholic liquor.

20 (b) If the person violates a term or condition of the
21 probation, the court may enter an adjudication of guilt and
22 proceed as otherwise provided by law.

23 (c) Upon fulfillment of the terms and conditions of the
24 probation, the court shall discharge the person and dismiss the
25 proceedings against him or her.

26 (1) Discharge and dismissal under this section is without
27 adjudication of guilt and is not a conviction for purposes of this
28 section or the section of the original charge, or for purposes of
29 disqualifications or disabilities imposed by law upon conviction
30 of a crime.

31 (2) The effect of the discharge and dismissal is to restore the
32 person in contemplation of law to the status he or she occupied
33 prior to arrest and trial.

34 (3) A person to whom a discharge and dismissal have been
35 effected under this section may not be found guilty of perjury,
36 false swearing or otherwise giving a false statement by reason of
37 his or her failure to disclose or acknowledge his or her arrest or
38 trial relating to a charge discharged and dismissed by this section
39 in response to any inquiry made of him or her for any purpose.

40 (d) There may be only one discharge and dismissal under
41 this section with respect to any one person.

42 (e) After a period of not less than six months after the
43 expiration of a term of probation imposed upon a person under

44 the provisions of this section, the person may apply to the court
45 for an order to expunge from all official records all recordations
46 of his or her arrest, trial and discharge pursuant to this section.
47 If the court determines after a hearing that the person during the
48 period of his or her probation and during the period prior to his
49 or her application to the court under this subsection has not been
50 guilty of any serious or repeated violation of the conditions of
51 his or her probation, it shall order the expungement.

52 (f) Notwithstanding any provision of this code to the
53 contrary, any person prosecuted for an alleged violation of an
54 offense listed in subsection (a) of this section, whose case is
55 disposed of pursuant to the provisions of this section, is liable for
56 all court costs assessable against a person convicted of a
57 violation of the section under which the person was prosecuted.
58 Payment of the costs may be made a condition of probation. The
59 costs assessed pursuant to this section, whether as a term of
60 probation or not, shall be distributed as other court costs in
61 accordance with section two, article three, chapter fifty of this
62 code; section four, article two-a, chapter fourteen of this code;
63 section four, article twenty-nine, chapter thirty of this code; and
64 sections two, seven and ten, article five, chapter sixty-two of this
65 code.



CHAPTER 6

**(Com. Sub. for S. B. 450 - By Senators Walters, Blair,
Carmichael, McCabe, Palumbo and Wells)**

[Passed March 8, 2014; in effect from passage.]

[Approved by the Governor on March 27, 2014.]

AN ACT to amend and reenact §60-1-5 of the Code of West Virginia,
1931, as amended; and to amend and reenact §60-8-3 of said code,

all relating to the licensed sale and consumption of alcoholic beverages in outdoor settings adjacent to public places; relating to the sale of liquors in liquors in outdoor dining areas adjoining an Alcohol Beverage Control Administration-licensed facility; permitting the sale of wine at certain college and university sports stadiums; establishing the conditions under which wine may be sold; setting a licensing fee; establishing who may hold a license; stating where wine may be served; granting the authority to grant waivers and exceptions and to revoke licenses; defining a term; authorizing rulemaking; and clarifying the definition of public place as it relates to such special licenses.

Be it enacted by the Legislature of West Virginia:

That §60-1-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §60-8-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5. Definitions.

1 For the purposes of this chapter:

2 “Alcohol” shall mean ethyl alcohol whatever its origin and
3 shall include synthetic ethyl alcohol but not denatured alcohol.

4 “Beer” shall mean any beverage obtained by the
5 fermentation of barley, malt, hops or any other similar product
6 or substitute, and containing more alcohol than that of
7 nonintoxicating beer.

8 “Nonintoxicating beer” shall mean any beverage obtained by
9 the fermentation of barley, malt, hops or similar products or
10 substitute and containing not more alcohol than that specified by
11 section two, article sixteen, chapter eleven of this code.

12 “Wine” shall mean any alcoholic beverage obtained by the
13 fermentation of the natural content of fruits, or other agricultural
14 products, containing sugar.

15 “Spirits” shall mean any alcoholic beverage obtained by
16 distillation and mixed with potable water and other substances
17 in solution and includes brandy, rum, whiskey, cordials and gin.

18 “Alcoholic liquor” shall include alcohol, beer, wine and
19 spirits and any liquid or solid capable of being used as a
20 beverage, but shall not include nonintoxicating beer.

21 “Original package” shall mean any closed or sealed
22 container or receptacle used for holding alcoholic liquor.

23 “Sale” shall mean any transfer, exchange or barter in any
24 manner or by any means, for a consideration, and shall include
25 all sales made by principal, proprietor, agent or employee.

26 “Selling” shall include solicitation or receipt of orders;
27 possession for sale; and possession with intent to sell.

28 “Person” shall mean an individual, firm, partnership, limited
29 partnership, corporation or voluntary association.

30 “Manufacture” means to distill, rectify, ferment, brew, make,
31 mix, concoct, process, blend, bottle or fill an original package
32 with any alcoholic liquor.

33 “Manufacturer” shall mean any person engaged in the
34 manufacture of any alcoholic liquor, and among others includes
35 a distiller, a rectifier, a wine maker and a brewer.

36 “Brewery” shall mean an establishment where beer is
37 manufactured or in any way prepared.

38 “Winery” shall mean an establishment where wine is
39 manufactured or in any way prepared.

40 “Distillery” shall mean an establishment where alcoholic
41 liquor other than wine or beer is manufactured or in any way
42 prepared.

43 “Public place” shall mean any place, building or conveyance
44 to which the public has, or is permitted to have access, including
45 restaurants, soda fountains, hotel dining rooms, lobbies and
46 corridors of hotels and any highway, street, lane, park or place
47 of public resort or amusement: *Provided*, That the term “public
48 place” shall not mean or include any of the above-named places
49 or any portion or portions thereof which qualify and are licensed
50 under the provisions of this chapter to sell alcoholic liquors for
51 consumption on the premises: *Provided, however*, That the term
52 “public place” shall not mean or include any legally demarcated
53 area designated solely for the consumption of beverages and
54 freshly prepared food that directly connects and adjoins any
55 portion or portions of a premises that qualifies and is licensed
56 under the provisions of this chapter to sell alcoholic liquors for
57 consumption thereupon: *Provided further*, That the term “public
58 place” shall also not include a facility constructed primarily for
59 the use of a Division I college that is a member of the National
60 Collegiate Athletic Association, or its successor, and used as a
61 football, basketball, baseball, soccer or other Division I sports
62 stadium which holds a special license to sell wine pursuant to the
63 provisions of section three, article eight of this chapter, in the
64 designated areas of sale and consumption of wine and other
65 restrictions established by that section and the terms of the
66 special license issued thereunder.

67 “State liquor store” shall mean a store established and
68 operated by the commission under this chapter for the sale of
69 alcoholic liquor in the original package for consumption off the
70 premises.

71 “An agency” shall mean a drugstore, grocery store or general
72 store designated by the commission as a retail distributor of

73 alcoholic liquor for the West Virginia Alcohol Beverage Control
74 Commissioner.

75 “Department” shall mean the organization through which the
76 commission exercises powers imposed upon it by this chapter.

77 “Commissioner” or “commission” shall mean the West
78 Virginia Alcohol Beverage Control Commissioner.

79 “Intoxicated” shall mean having one’s faculties impaired by
80 alcohol or other drugs to the point where physical or mental
81 control or both are markedly diminished.

ARTICLE 8. SALE OF WINES.

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

1 (a) No person may engage in business in the capacity of a
2 winery, farm winery, supplier, distributor, retailer, private wine
3 bed and breakfast, private wine restaurant, private wine spa or
4 wine specialty shop without first obtaining a license from the
5 commissioner, nor shall a person continue to engage in any
6 activity after his or her license has expired, been suspended or
7 revoked. No person may be licensed simultaneously as a
8 distributor and a retailer. No person, except for a winery or farm
9 winery, may be licensed simultaneously as a supplier and a
10 retailer. No person may be licensed simultaneously as a supplier
11 and a private wine bed and breakfast, private wine restaurant or
12 a private wine spa. No person may be licensed simultaneously as
13 a distributor and a private wine bed and breakfast, a private wine
14 restaurant or a private wine spa. No person may be licensed
15 simultaneously as a retailer and a private wine bed and breakfast,
16 a private wine restaurant or a private wine spa.

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

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

21 (2) Twenty-five hundred dollars per year for a distributor's
22 license and each separate warehouse or other facility from which
23 a distributor sells, transfers or delivers wine shall be separately
24 licensed and there shall be collected with respect to each location
25 the annual license fee of \$2,500 as herein provided;

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

27 (4) Two hundred fifty dollars per year for a wine specialty
28 shop license, in addition to any other licensing fees paid by a
29 winery or retailer holding a license, except for the amount of the
30 license fee and the restriction to sales of winery or farm winery
31 wines, a winery or farm winery acting as a wine specialty shop
32 retailer is subject to all other provisions of this article which are
33 applicable to a wine specialty shop retailer as defined in section
34 two of this article;

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

37 (6) One hundred fifty dollars per year for a private wine bed
38 and breakfast license and each separate bed and breakfast from
39 which a licensee sells wine shall be separately licensed and there
40 shall be collected with respect to each location the annual license
41 fee of \$150 as herein provided;

42 (7) Two hundred fifty dollars per year for a private wine
43 restaurant license and each separate restaurant from which a
44 licensee sells wine shall be separately licensed and there shall be
45 collected with respect to each location the annual license fee of
46 \$250 as herein provided;

47 (8) One hundred fifty dollars per year for a private wine spa
48 license and each separate private wine spa from which a licensee

49 sells wine shall be separately licensed and there shall be
50 collected with respect to each location the annual license fee of
51 \$150 as herein provided;

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

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

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

62 (12) Three hundred dollars per year for a multicapacity
63 winery or farm winery license which shall enable the holder to
64 operate as a retailer, wine specialty shop, supplier and direct
65 shipper without obtaining an individual license for each capacity.

66 (c) The license period shall begin on July 1 of each year and
67 end on June 30 of the following year and if granted for a less
68 period, the same shall be computed semiannually in proportion
69 to the remainder of the fiscal year.

70 (d) No retailer may be licensed as a private club as provided
71 by article seven of this chapter, except as provided by subsection
72 (k) of this section.

73 (e) No retailer may be licensed as a Class A retail dealer in
74 nonintoxicating beer as provided by article sixteen, chapter
75 eleven of this code: *Provided*, That a delicatessen, a caterer or
76 party supply store which is a grocery store as defined in section
77 two of this article and which is licensed as a Class A retail dealer
78 in nonintoxicating beer may be a retailer under this article:

79 *Provided, however,* That any delicatessen, caterer or party
80 supply store licensed in both capacities must maintain average
81 monthly sales exclusive of sales of wine and nonintoxicating
82 beer which exceed the average monthly sales of nonintoxicating
83 beer.

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

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

100 (h) The commissioner may issue a special license for the
101 retail sale of wine at any festival or fair which is endorsed or
102 sponsored by the governing body of a municipality or a county
103 commission. Such special license shall be issued for a term of no
104 longer than ten consecutive days and the fee therefor shall be
105 \$250 regardless of the term of the license unless the applicant is
106 the manufacturer of said wine on a winery or a farm winery as
107 defined in section five-a, article one of this chapter, in which
108 event the fee shall be \$50 if the event is held on the premises of
109 the winery or farm winery. The application for the license shall
110 contain information as the commissioner may reasonably require
111 and shall be submitted to the commissioner at least thirty days

112 prior to the first day when wine is to be sold at the festival or
113 fair. A winery or a farm winery licensed under this subsection
114 may exhibit, conduct tastings or sell samples, not to exceed a
115 reasonable serving of three ounces, and may sell wine samples
116 for consumption on the premises during the operation of a
117 festival or fair: *Provided*, That for licensed wineries or farm
118 wineries at a licensed festival or fair the tastings, samples and
119 off-premises sales shall occur under the hours of operation as
120 required in this article, except that on Sunday tastings, samples
121 and off-premises sales are unlawful between the hours of 2:00 a.
122 m. and 10:00 a. m. A special license issued other than to a
123 winery or a farm winery may be issued to a “wine club” as
124 defined herein below. The festival or fair committee or the
125 governing body shall designate a person to organize a club under
126 a name which includes the name of the festival or fair and the
127 words “wine club”. The license shall be issued in the name of the
128 wine club. A licensee may not commence the sale of wine as
129 provided in this subsection until the wine club has at least fifty
130 dues-paying members who have been enrolled and to whom
131 membership cards have been issued. Thereafter, new members
132 may be enrolled and issued membership cards at any time during
133 the period for which the license is issued. A wine club licensed
134 under the provisions of this subsection may sell wine only to its
135 members, and in portions not to exceed eight ounces per serving.
136 The sales shall take place on premises or in an area cordoned or
137 segregated so as to be closed to the general public, and the
138 general public shall not be admitted to the premises or area. A
139 wine club licensee under the provisions of this subsection shall
140 be authorized to serve complimentary samples of wine in
141 moderate quantities for tasting.

142 A license issued under the provisions of this subsection and
143 the licensee holding the license shall be subject to all other
144 provisions of this article and the rules and orders of the
145 commissioner relating to the special license: *Provided*, That the
146 commissioner may by rule, regulation or order provide for

147 certain waivers or exceptions with respect to the provisions,
148 rules, regulations or orders as the circumstances of each festival
149 or fair may require, including, without limitation, the right to
150 revoke or suspend any license issued pursuant to this section
151 prior to any notice or hearing notwithstanding the provisions of
152 section twenty-seven and twenty-eight of this article: *Provided,*
153 *however,* That under no circumstances shall the provisions of
154 subsection (c) or (d), section twenty of this article be waived nor
155 shall any exception be granted with respect thereto.

156 A license issued under the provisions of this subsection and
157 the licensee holding the license is not subject to the provisions
158 of subsection (g) of this section.

159 (i) (A) The commissioner may issue a special license for the
160 retail sale of wine in a professional baseball stadium. A license
161 to sell wine granted pursuant to this subsection entitles the
162 licensee to sell and serve wine, for consumption in a professional
163 baseball stadium. For the purpose of this subsection,
164 "professional baseball stadium" means a facility constructed
165 primarily for the use of a major or minor league baseball
166 franchisee affiliated with the National Association of
167 Professional Baseball Leagues, Inc., or its successor, and used as
168 a major or minor league baseball park. Any special license
169 issued pursuant to this subsection shall be for a term beginning
170 on the date of issuance and ending on the next following June
171 30, and its fee is \$250 regardless of the length of the term of the
172 license. The application for the special license shall contain
173 information as the commissioner may reasonably require and
174 must be submitted to the commissioner at least thirty days prior
175 to the first day when wine is to be sold at the professional
176 baseball stadium. The special license may be issued in the name
177 of the baseball franchisee or the name of the primary food and
178 beverage vendor under contract with the baseball franchisee.
179 These sales must take place within the confines of the
180 professional baseball stadium, provided that the exterior of the
181 area where wine sales may occur are surrounded by a fence or

182 other barrier prohibiting entry except upon the franchisee's
183 express permission, and under the conditions and restrictions
184 established by the franchisee, so that the wine sales area is
185 closed to free and unrestricted entry by the general public.

186 (B) A license issued under this subsection and the licensee
187 holding the license is subject to all other provisions of this article
188 and the rules and orders of the commissioner relating to the
189 special license: *Provided*, That the commissioner may by rule or
190 order grant certain waivers or exceptions to those rules or orders
191 as the circumstances of each professional baseball stadium may
192 require, including, without limitation, the right to revoke or
193 suspend any license issued pursuant to this section prior to any
194 notice or hearing notwithstanding sections twenty-seven and
195 twenty-eight of this article: *Provided, however*, That under no
196 circumstances may subsection (c) or (d), section twenty of this
197 article be waived nor shall any exception be granted concerning
198 those subsections.

199 (C) The commissioner has the authority to propose rules for
200 legislative approval in accordance with article three, chapter
201 twenty-nine-a of this code to implement this subsection.

202 (j) A license to sell wine granted to a private wine bed and
203 breakfast, private wine restaurant, private wine spa or a private
204 club under the provisions of this article entitles the operator to
205 sell and serve wine, for consumption on the premises of the
206 licensee, when the sale accompanies the serving of food or a
207 meal to its members and their guests in accordance with the
208 provisions of this article: *Provided*, That a licensed private wine
209 bed and breakfast, private wine restaurant, private wine spa or a
210 private club may permit a person over twenty-one years of age
211 to purchase wine, consume wine and recork or reseal, using a
212 tamper resistant cork or seal, up to two separate bottles of
213 unconsumed wine in conjunction with serving of food or a meal
214 to its members and their guests in accordance with the provisions
215 of this article and in accordance with regulations promulgated by

216 the commissioner for the purpose of consumption of said wine
217 off premises: *Provided, however,* That for this article, food or a
218 meal provided by the private licensee means that the total food
219 purchase, excluding beverage purchases, taxes, gratuity or other
220 fees is at least \$15: *Provided further,* That a licensed private
221 wine restaurant or a private club may offer for sale for
222 consumption off the premises, sealed bottles of wine to its
223 customers provided that no more than one bottle is sold per each
224 person over twenty-one years of age, as verified by the private
225 wine restaurant or private club, for consumption off the
226 premises. Such licensees are authorized to keep and maintain on
227 their premises a supply of wine in quantities as may be
228 appropriate for the conduct of operations thereof. Any sale of
229 wine so made shall be subject to all restrictions set forth in
230 section twenty of this article. A private wine restaurant may also
231 be licensed as a Class A retail dealer in nonintoxicating beer as
232 provided by article sixteen, chapter eleven of this code.

233 (k) With respect to subsections (h), (i), (j), (o) and (p) of this
234 section, the commissioner shall promulgate legislative rules in
235 accordance with the provisions of chapter twenty-nine-a of this
236 code with regard to the form of the applications, the suitability
237 of both the applicant and location of the licensed premises and
238 other legislative rules deemed necessary to carry the provisions
239 of the subsections into effect.

240 (l) The commissioner shall promulgate legislative rules in
241 accordance with the provisions of chapter twenty-nine-a of this
242 code to allow restaurants to serve wine with meals, and to sell
243 wine by the bottle for off-premises consumption as provided in
244 subsection (j) of this section. Each restaurant so licensed shall be
245 charged an additional \$100 per year fee.

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

248 (n) Wineries and farm wineries may advertise off premises
249 as provided in section seven, article twenty-two, chapter
250 seventeen of this code.

251 (o) A wine specialty shop under this article may also hold a
252 wine sampling license authorizing the wine specialty shop to
253 conduct special wine sampling events at a licensed wine
254 specialty shop location during regular hours of business. The
255 wine specialty shop may serve up to three complimentary
256 samples of wine, consisting of no more than one ounce each, to
257 any one consumer in one day. Persons serving the
258 complimentary samples must be twenty-one years of age and an
259 authorized representative of the licensed wine specialty shop,
260 winery, farm winery or a representative of a distributor or
261 registered supplier. Distributor and supplier representatives
262 attending wine sampling events must be registered with the
263 commissioner. No licensee, employee or representative may
264 furnish, give or serve complimentary samples of wine to any
265 person less than twenty-one years of age or to a person who is
266 physically incapacitated due to the consumption of alcoholic
267 liquor or the use of drugs. The wine specialty shop shall notify
268 and secure permission from the commissioner for all wine
269 sampling events one month prior to the event. Wine sampling
270 events may not exceed six hours per calendar day. Licensees
271 must purchase all wines used during these events from a licensed
272 farm winery or a licensed distributor.

273 (p) The commissioner may issue special one-day licenses to
274 duly organized, nonprofit corporations and associations allowing
275 the sale and serving of wine when raising money for athletic,
276 charitable, educational or religious purposes. The license
277 application shall contain information as the commissioner may
278 reasonably require and shall be submitted to the commissioner
279 at least thirty days prior to the event. Wines used during these
280 events may be donated by or purchased from a licensed retailer,
281 a distributor or a farm winery. Under no circumstances may the

282 provision of subsection (c), section twenty of this article be
283 waived nor may any exception be granted with respect thereto.

284 (q) The commissioner may issue special licenses to heritage
285 fairs and festivals allowing the sale, serving and sampling of
286 wine from a licensed farm winery. The license application shall
287 contain information required by the commissioner and shall be
288 submitted to the commissioner at least thirty days prior to the
289 event. Wines used during these events may be donated by or
290 purchased from a licensed farm winery. Under no circumstances
291 may the provision of subsection (c), section twenty of this article
292 be waived nor may any exception be granted with respect
293 thereto. The commissioner shall propose rules for legislative
294 approval in accordance with article three, chapter twenty-nine-a
295 of this code to implement the provisions of this subsection.

296 (r)(1) The commissioner may issue a special license for the
297 retail sale of wine in a college stadium. A license to sell wine
298 granted pursuant to this subsection entitles the licensee to sell
299 and serve wine for consumption in a college stadium. For the
300 purpose of this subsection, "college stadium" means a facility
301 constructed primarily for the use of a Division I college that is
302 a member of the National Collegiate Athletic Association, or its
303 successor, and used as a football, basketball, baseball, soccer or
304 other Division I sports stadium. A special license issued pursuant
305 to this subsection shall be for a term beginning on the date of its
306 issuance and ending on the next following June 30, and its fee is
307 \$250 regardless of the length of the term of the license. The
308 application for the special license shall contain information as
309 the commissioner may reasonably require and must be submitted
310 to the commissioner at least thirty days prior to the first day
311 when wine is to be sold. The special license may be issued in the
312 name of the National Collegiate Athletic Association Division I
313 college or university or the name of the primary food and
314 beverage vendor under contract with that college or university.
315 These sales must take place within the confines of the college

316 stadium: *Provided*, That the exterior of the area where wine
317 sales may occur are surrounded by a fence or other barrier
318 prohibiting entry except upon the college or university's express
319 permission, and under the conditions and restrictions established
320 by the college or university, so that the wine sales area is closed
321 to free and unrestricted entry by the general public.

322 (2) A license issued under this subsection and the licensee
323 are subject to the other requirements of this article and the rules
324 and orders of the commissioner relating to the special license:
325 *Provided*, That the commissioner may by rule or order grant
326 certain waivers or exceptions to those rules or orders as the
327 circumstances of each the college stadium may require,
328 including, without limitation, the right to revoke or suspend any
329 license issued pursuant to this section prior to any notice or
330 hearing notwithstanding sections twenty-seven and twenty-eight
331 of this article: *Provided, however*, That subsection (c) or (d),
332 section twenty of this article may not be waived, nor shall any
333 exception be granted concerning those subsections.

334 (3) The commissioner may propose rules for legislative
335 approval in accordance with article three, chapter twenty-nine-a
336 of this code to implement this subsection.

CHAPTER 7

**(H. B. 4529 - By Delegates Manchin, Ferro, Lawrence,
Pethtel, Boggs and Skaff)**

[Passed March 7, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §60-8-2 and §60-8-16 of the Code of West Virginia, 1931, as amended, all relating to the sale of wine

generally; expanding the definition of “person” for purposes of holding a distributor license; allowing trusts, limited liability companies and associations to hold a distributor’s license; and requiring certain disclosures by applicants that are trusts, limited liability companies or associations.

Be it enacted by the Legislature of West Virginia:

That §60-8-2 and §60-8-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to all read as follows:

ARTICLE 8. SALE OF WINES.

PART II. SALE OF WINE GENERALLY.

§60-8-2. Definitions.

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

3 “Commissioner” or “commission” means the West Virginia
4 Alcohol Beverage Control Commissioner.

5 “Distributor” means any person whose principal place of
6 business is within the State of West Virginia who makes
7 purchases from a supplier to sell or distribute wine to retailers,
8 grocery stores, private wine bed and breakfasts, private wine
9 restaurants, private wine spas, private clubs or wine specialty
10 shops and that sells or distributes nonfortified dessert wine, port,
11 sherry and Madeira wines to wine specialty shops, private wine
12 restaurants, private clubs or retailers under authority of this
13 article and maintains a warehouse in this state for the distribution
14 of wine. For the purpose of a distributor only, the term “person”
15 means and includes an individual, firm, trust, partnership,
16 limited partnership, limited liability company, association or
17 corporation. Any trust licensed as a distributor or any trust that
18 is an owner of a distributor licensee, and the trustee or other

19 persons in active control of the activities of the trust relating to
20 the distributor license, is liable for acts of the trust or its
21 beneficiaries relating to the distributor license that are unlawful
22 acts or violations of this article, notwithstanding the liability of
23 trustees in article ten, chapter forty-four-d of this code.

24 “Fortified wine” means any wine to which brandy or other
25 alcohol has been added and shall include dessert wines which are
26 not fortified having an alcohol content by volume of at least
27 fourteen and one-tenths percent and not exceeding sixteen
28 percent.

29 “Grocery store” means any retail establishment, commonly
30 known as a grocery store, supermarket, delicatessen, caterer or
31 party supply store, where food, food products and supplies for
32 the table are sold for consumption off the premises with average
33 monthly sales (exclusive of sales of wine) of not less than \$500
34 and an average monthly inventory (exclusive of inventory of
35 wine) of not less than \$3,000. The term “grocery store” shall also
36 include and mean a separate and segregated portion of any other
37 retail store which is dedicated solely to the sale of food, food
38 products and supplies for the table for consumption off the
39 premises with average monthly sales with respect to such
40 separate or segregated portion (exclusive of sales of wine) of not
41 less than \$3,000 and an average monthly inventory (exclusive of
42 inventory of wine) of not less than \$3,000.

43 “Licensee” means the holder of a license granted under the
44 provisions of this article.

45 “Person” means and includes an individual, firm,
46 partnership, limited partnership, limited liability company,
47 association or corporation.

48 “Private wine bed and breakfast” means any business with
49 the sole purpose of providing, in a residential or country setting,
50 a hotel, motel, inn or other such establishment properly zoned as

51 to its municipality or local ordinances, lodging and meals to its
52 customers in the course of their stay at the establishment, which
53 business also: (1) Is a partnership, limited partnership,
54 corporation, unincorporated association or other business entity
55 which as part of its general business purpose provides meals on
56 its premises to its members and their guests; (2) is licensed under
57 the provisions of this article as to all of its premises or as to a
58 separate segregated portion of its premises to serve wine to its
59 members and their guests when such sale accompanies the
60 serving of food or meals; and (3) admits only duly elected and
61 approved dues-paying members and their guests while in the
62 company of a member and does not admit the general public.

63 “Private wine restaurant” means a restaurant which: (1) Is a
64 partnership, limited partnership, corporation, unincorporated
65 association or other business entity which has as its principal
66 purpose the business of serving meals on its premises to its
67 members and their guests; (2) is licensed under the provisions of
68 this article as to all of its premises or as to a separate segregated
69 portion of its premises to serve wine to its members and their
70 guests when such sale accompanies the serving of food or meals;
71 (3) admits only duly elected and approved dues-paying members
72 and their guests while in the company of a member and does not
73 admit the general public. Such private clubs that meet the private
74 wine restaurant requirements numbered (1), (2) and (3) in this
75 definition shall be considered private wine restaurants.

76 “Private wine spa” means any business with the sole purpose
77 of providing commercial facilities devoted especially to health,
78 fitness, weight loss, beauty, therapeutic services and relaxation,
79 and may be also a licensed massage parlor or a salon with
80 licensed beauticians or stylists, which business also: (1) Is a
81 partnership, limited partnership, corporation, unincorporated
82 association or other business entity which as part of its general
83 business purpose provides meals on its premises to its members
84 and their guests; (2) is licensed under the provisions of this

85 article as to all of its premises or as to a separate segregated
86 portion of its premises to serve up to two glasses of wine to its
87 members and their guests when such sale accompanies the
88 serving of food or meals; and (3) admits only duly elected and
89 approved dues-paying members and their guests while in the
90 company of a member, and does not admit the general public.

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

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

99 “Tax” includes within its meaning interest, additions to tax
100 and penalties.

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

104 “Varietal wine” means any wine labeled according to the
105 grape variety from which such wine is made.

106 “Vintage wine” or “vintage-dated wine” means wines from
107 which the grapes used to produce such wine are harvested during
108 a particular year or wines produced from the grapes of a
109 particular harvest in a particular region of production.

110 “Wine” means any alcoholic beverage obtained by the
111 natural fermentation of the natural content of grapes, other fruits
112 or honey or other agricultural products containing sugar and to
113 which no alcohol has been added and shall include table wine,
114 and shall exclude fortified wine and shall also exclude any

115 product defined as or embraced within the definition of
116 nonintoxicating beer under the provisions of article sixteen,
117 chapter eleven of this code.

118 “Wine specialty shop” means a retailer who shall deal
119 principally in the sale of table wine, nonfortified dessert wines,
120 wine accessories and food or foodstuffs normally associated with
121 wine and: (1) Who shall maintain a representative number of
122 such wines for sale in his or her inventory which are designated
123 by label as varietal wine, vintage, generic and/or according to
124 region of production and the inventory shall contain not less than
125 fifteen percent vintage or vintage-dated wine by actual bottle
126 count; and (2) who, any other provisions of this code to the
127 contrary notwithstanding, may maintain an inventory of port,
128 sherry and Madeira wines having an alcoholic content of not
129 more than twenty-two percent alcohol by volume and which
130 have been matured in wooden barrels or casks.

§60-8-16. Application for license.

1 (a) Any person desiring a license under this article shall file
2 a written application for a license with the commissioner and in
3 the application shall state under oath:

4 (1) The name of the applicant, including his or her trade
5 name if any, his or her address and the length of his or her
6 residence within this state;

7 (2) The address of the place of business for which the license
8 is desired, or other description that definitely locates it; and that
9 the place of business conforms to all health and fire laws and
10 regulations applicable thereto;

11 (3) The name of the owner of the premises upon which the
12 business is to be conducted and, if the owner is not the applicant,
13 that such applicant is the bona fide lessee of the business;

14 (4) If the application is for a retailer's license, that the
15 applicant is the proprietor or owner of a bona fide grocery store,
16 private wine bed and breakfast, private wine restaurant, private
17 wine spa or wine specialty shop;

18 (5) That the applicant intends to carry on the business
19 authorized by the license for himself or herself or under his or
20 her immediate supervision or direction;

21 (6) That the applicant is a citizen of the United States;

22 (7) That the applicant is an actual bona fide resident of the
23 State of West Virginia, except for those applicants applying for
24 a supplier's license or a direct shipper's license;

25 (8) That the applicant is not less than eighteen years of age;

26 (9) That the applicant has not been convicted of a felony or
27 other crime involving moral turpitude within the three years next
28 preceding the filing of the application; and that he or she has not,
29 within the two years next preceding the filing of the application,
30 been convicted of violating the liquor laws of any state or of the
31 United States;

32 (10) That the applicant has not during the five years next
33 preceding the date of said application had any license revoked
34 under this chapter or under the liquor laws of any other state;

35 (11) If the applicant is a firm, association, partnership,
36 limited partnership, limited liability company or corporation, the
37 application shall state the matters required in subdivisions (6),
38 (7), (8), (9) and (10), with respect to each of the members
39 thereof, and each of said members must meet all the
40 requirements in said subdivisions;

41 (12) If the applicant is a corporation, organized or authorized
42 to do business in this state, the application shall state the matters
43 required in subdivisions (6), (7), (8), (9) and (10), with respect

44 to each of the officers and directors thereof, and any stockholder
45 owning twenty percent or more of the stock of such corporation
46 and the persons who conduct and manage the licensed premises
47 for the corporation. Each of said individuals must meet all the
48 requirements provided in those subdivisions except that the
49 requirements as to citizenship and residence shall not apply to
50 the officers, directors and stockholders of a corporation applying
51 for a retailer's license; and

52 (13) If the applicant is a trust or has a trust as an owner, the
53 trustees or other persons in active control of the activities of the
54 trust relating to the license shall provide a certification of trust
55 as described in section one thousand thirteen, article ten, chapter
56 forty-four-d of this code. This certification of trust shall include
57 the excerpts described in subsection (e), section one thousand
58 thirteen, article ten, chapter forty-four-d of this code and shall
59 further state, under oath, the names, addresses, Social Security
60 numbers and birth dates of the beneficiaries of the trust and
61 certify that the trustee and beneficiaries are twenty-one years of
62 age or older. If a beneficiary is not twenty-one years of age, the
63 certification of trust must state that the beneficiary's interest in
64 the trust is represented by a trustee, parent or legal guardian who
65 is twenty-one years of age and who will direct all actions on
66 behalf of the beneficiary related to the trust with respect to the
67 distributor until the beneficiary is twenty-one years of age. Any
68 beneficiary who is not twenty-one years of age or older shall
69 have his or her trustee, parent or legal guardian include in the
70 certification of trust and state under oath his or her name,
71 address, social security number and birth date.

72 (14) Any other information that the commissioner may
73 reasonably require.

74 The foregoing statements required in an application are
75 mandatory prerequisites for the issuance of a license.

76 The application must be verified by the owner, or in the case
77 of a firm, partnership, limited partnership, limited liability

78 company, association or trust, the members, officers, trustees or
79 other persons in active control of the activities of the limited
80 liability company, association or trust relating to the license. The
81 application of a corporation applying for a retailer's license need
82 be verified only by its president or vice president.

83 (b) In the case of an applicant that is a trust or has a trust as
84 an owner, a distributor license may be issued only upon
85 submission by the trustees or other persons in active control of
86 the activities of the trust relating to the distributor license of a
87 true and correct copy of the written trust instrument to the
88 commissioner for his or her review. Notwithstanding any
89 provision of law to the contrary, the copy of the written trust
90 instrument submitted to the commissioner pursuant to this
91 section is confidential and is not a public record and is not
92 available for release pursuant to the West Virginia Freedom of
93 Information Act codified in article one, chapter twenty-nine-b of
94 this code.



CHAPTER 8

**(H. B. 4177 - By Mr. Speaker (Mr. Miley)
and Delegate Armstead)
[By Request of the Executive]**

[Passed February 5, 2014; in effect from passage.]
[Approved by the Governor on February 13, 2014.]

AN ACT making a supplementary appropriation of federal funds out of the treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2014, to the Department of Health and Human Resources, Human Rights Commission, fund 8725, fiscal year 2014, organization 0510, to

the Department of Military Affairs and Public Safety, Adjutant General - West Virginia National Guard Counterdrug Forfeiture Fund, fund 8785, fiscal year 2014, organization 0603, to the Department of Military Affairs and Public Safety, West Virginia State Police, fund 8741, fiscal year 2014, organization 0612, and to the Department of Veterans' Assistance, fund 8858, fiscal year 2014, organization 0613, by supplementing and amending chapter four, Acts of the Legislature, regular session, 2013, known as the budget bill.

WHEREAS, The Governor has established the availability of federal funds now available for expenditure in the fiscal year ending June 30, 2014, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2014, to fund 8725, fiscal year 2014, organization 0510, be supplemented and amended by increasing an existing item of appropriation as follows:

1 TITLE II—APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF HEALTH AND HUMAN**
 4 **RESOURCES**

5 *350-Human Rights Commission*

6 (WV Code Chapter 5)

7 Fund 8725 FY 2014 Org 0510

8	9	10	3	Current Expenses.....	Act- ivity	\$	Federal Funds
					130		67,500

11 And, That chapter four, Acts of the Legislature, regular
12 session, 2013, known as the budget bill, be supplemented and
13 amended by adding to Title II, section six thereof, the following:

1 TITLE II—APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF MILITARY**
4 **AFFAIRS AND PUBLIC SAFETY**

5 *353a-Adjutant General -*
6 *West Virginia National Guard Counterdrug Forfeiture Fund*

7 (WV Code Chapter 15)

8 Fund 8785 FY 2014 Org 0603

9 10			Act- ivity	Federal Funds
11	1	Personal Services.....	001	\$ 1,000,000
12	2	Employee Benefits.....	010	350,000
13	3	Current Expenses.....	130	300,000
14	4	Equipment.	070	<u>350,000</u>
15		Total.....		\$ 2,000,000

16 And, That the total appropriation for the fiscal year ending
17 June 30, 2014, to fund 8741, fiscal year 2014, organization 0612,
18 be supplemented and amended by increasing existing items of
19 appropriation as follows:

1 TITLE II—APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

36

APPROPRIATIONS

[Ch. 8

3

**DEPARTMENT OF MILITARY
AFFAIRS AND PUBLIC SAFETY**

4

5

356-West Virginia State Police

6

(WV Code Chapter 15)

7

Fund 8741 FY 2014 Org 0612

8

Act-

Federal

9

ivity

Funds

10	1	Personal Services.....	001	\$	251,882
11	2	Employee Benefits.....	010		51,462
12	3	Current Expenses.....	130		188,140
13	5	Equipment.	070		271,583
14	7	Other Assets.....	690		20,000

15 And, That the total appropriation for the fiscal year ending
16 June 30, 2014, to fund 8858, fiscal year 2014, organization 0613,
17 be supplemented and amended by increasing existing items of
18 appropriation as follows:

1

TITLE II—APPROPRIATIONS.

2

Sec. 6. Appropriations of federal funds.

3

DEPARTMENT OF VETERANS' ASSISTANCE

4

365-Department of Veterans' Assistance

5

(WV Code Chapter 9A)

6

Fund 8858 FY 2014 Org 0613

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2014, to fund 8749, fiscal year 2014, organization 0323, be supplemented and amended by increasing an existing item of appropriation as follows:

1	TITLE II—APPROPRIATIONS.		
2	Sec. 7. Appropriations from federal block grants.		
3	<i>372-WorkForce West Virginia-</i>		
4	<i>Workforce Investment Act</i>		
5	Fund <u>8749</u> FY <u>2014</u> Org <u>0323</u>		
6		Act-	Federal
7		ivity	Funds
8	4	Current Expenses..... 130	\$ 5,000,000

9 The purpose of this supplementary appropriation bill is to
 10 supplement, amend, and increase an existing item of
 11 appropriation in the aforesaid account for the designated
 12 spending unit for expenditure during the fiscal year 2014.

CHAPTER 10

**(H. B. 4182 - By Mr. Speaker (Mr. Miley)
 and Delegate Armstead)
 [By Request of the Executive]**

[Passed February 5, 2014; in effect from passage.]
 [Approved by the Governor on February 13, 2014.]

AN ACT making a supplementary appropriation from the balance of moneys remaining unappropriated for the fiscal year ending June

30, 2014, to a new item of appropriation designated to the Auditor's Office, Volunteer Fire Department Workers' Compensation Premium Subsidy Fund, fund 1239, fiscal year 2014, organization 1200, to the Department of Education and the Arts, State Board of Rehabilitation - Division of Rehabilitation Services - West Virginia Rehabilitation Center - Special Account, fund 8664, fiscal year 2014, organization 0932, to the Department of Health and Human Resources, Division of Health, Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations, fund 5156, fiscal year 2014, organization 0506, to the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185, fiscal year 2014, organization 0511, to the Department of Revenue, Racing Commission - General Administration, fund 7305, fiscal year 2014, organization 0707, to the Miscellaneous Boards and Commissions, WV State Board of Examiners for Licensed Practical Nurses, fund 8517, fiscal year 2014, organization 0906, to the Miscellaneous Boards and Commissions, Public Service Commission, fund 8623, fiscal year 2014, organization 0926, by supplementing and amending chapter four, Acts of the Legislature, regular session, 2013, known as the budget bill.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Auditor's Office, Volunteer Fire Department Workers' Compensation Premium Subsidy Fund, fund 1239, fiscal year 2014, organization 1200, in the Department of Education and the Arts, State Board of Rehabilitation - Division of Rehabilitation Services - West Virginia Rehabilitation Center - Special Account, fund 8664, fiscal year 2014, organization 0932, in the Department of Health and Human Resources, Division of Health, Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations, fund 5156, fiscal year 2014, organization 0506, in the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185, fiscal year 2014, organization 0511, in the Department of Revenue,

Racing Commission - General Administration, fund 7305, fiscal year 2014, organization 0707, in the Miscellaneous Boards and Commissions, WV State Board of Examiners for Licensed Practical Nurses, fund 8517, fiscal year 2014, organization 0906, in the Miscellaneous Boards and Commissions, Public Service Commission, fund 8623, fiscal year 2014, organization 0926, that is available for expenditure during the fiscal year ending June 30, 2014 which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That chapter four, Acts of the Legislature, regular session, 2013, known as the budget bill, be supplemented and amended by adding Title II, section three thereof, the following:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **EXECUTIVE**

4 *128a-Auditor's Office-*
 5 *Volunteer Fire Department Workers'*
 6 *Compensation Premium Subsidy Fund*

7 (WV Code Chapters 12 and 33)

8 Fund 1239 FY 2014 Org 1200

	Act-	Other
	ivity	Funds
11 1 Volunteer Fire Department		
12 2 Workers' Compensation		
13 Subsidy.	832	\$ 4,000,000

14 And, That the total appropriation for the fiscal year ending
 15 June 30, 2014, to fund 8664, fiscal year 2014, organization 0932,
 16 be supplemented and amended to read as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF EDUCATION AND THE ARTS**

4 *178-State Board of Rehabilitation -*
 5 *Division of Rehabilitation Services -*
 6 *West Virginia Rehabilitation Center -*
 7 *Special Account*

8 (WV Code Chapter 18)

9 Fund 8664 FY 2014 Org 0932

10	11	12	13	14	15	16	17	18	19
						Act-		Other	
						ivity		Funds	
	1	Personal Services.....	001	\$				75,000	
	2	Employee Benefits.....	010					20,738	
	3	Current Expenses.....	130					2,139,622	
	4	Repairs and Alterations.....	064					150,000	
	5	Equipment.	070					220,000	
	6	Buildings.	258					150,000	
	7	Other Assets.....	690					<u>150,000</u>	
	8	Total.		\$				2,905,360	

20 And, That the total appropriation for the fiscal year ending
 21 June 30, 2014, to fund 5156, fiscal year 2014, organization 0506,
 22 be supplemented and amended by increasing an existing item of
 23 appropriation as follows:

42

APPROPRIATIONS

[Ch. 10

1

TITLE II — APPROPRIATIONS.

2

Sec. 3. Appropriations from other funds.

3

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

4

5

199-Division of Health -

6

Hospital Services Revenue Account

7

Special Fund

8

Capital Improvement, Renovation and Operations

9

(WV Code Chapter 16)

10

Fund 5156 FY 2014 Org 0506

11

Act-

Other

12

ivity

Funds

13

1 Institutional Facilities

14

Operations. 335 \$ 10,500,000

15

And, That the total appropriation for the fiscal year ending
16 June 30, 2014, to fund 5185, fiscal year 2014, organization 0511,
17 be supplemented and amended by increasing an existing item of
18 appropriation as follows:

19

TITLE II — APPROPRIATIONS.

20

Sec. 3. Appropriations from other funds.

21

**DEPARTMENT OF HEALTH AND
HUMAN RESOURCES**

22

23

211-Division of Human Services-

24

Medical Services Trust Fund

25

(WV Code Chapter 9)

26 Fund 5185 FY 2014 Org 0511

27		Act-	
28		ivity	Other
			Funds

29	1	Medical Services.....	189	\$	109,351,172
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30 And, That the total appropriation for the fiscal year ending
 31 June 30, 2014, to fund 7305, fiscal year 2014, organization 0707,
 32 be supplemented and amended by decreasing existing items of
 33 appropriation as follows:

34 TITLE II — APPROPRIATIONS.

35 **Sec. 3. Appropriations from other funds.**

36 **DEPARTMENT OF REVENUE**

37 *251-Racing Commission-*
 38 *General Administration*

39 (WV Code Chapter 19)

40 Fund 7305 FY 2014 Org 0707

41		Act-	
42		ivity	Other
			Funds

43	1	Personal Services.....	001	\$	445,000
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44	2	Employee Benefits.....	010		150,000
----	---	------------------------	-----	--	---------

45 And, That the total appropriation for the fiscal year ending
 46 June 30, 2014, to fund 8517, fiscal year 2014, organization 0906,
 47 be supplemented and amended by increasing items of
 48 appropriations as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 MISCELLANEOUS BOARDS AND COMMISSIONS

4 270-WV State Board of Examiners for
5 Licensed Practical Nurses

6 (WV Code Chapter 30)

7 Fund 8517 FY 2014 Org 0906

		Act- ivity	Other Funds
10	2 Employee Benefits.....	010	\$ 18,000
11	3 Current Expenses.....	130	17,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2014, to fund 8623, fiscal year 2014, organization 0926,
14 be supplemented and amended by increasing an existing item of
15 appropriation as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 MISCELLANEOUS BOARDS AND COMMISSIONS

4 272-Public Service Commission

5 (WV Code Chapter 24)

6 Fund 8623 FY 2014 Org 0926

		Act- ivity	Other Funds
9	4 Current Expenses.....	130	\$ 335,000

10 The purpose of this supplemental appropriation bill is to
11 supplement, amend, increase, decrease, and add items of
12 appropriations in the aforesaid accounts for the designated
13 spending units for expenditure during the fiscal year 2014.

CHAPTER 11

**(Com. Sub. for H. B. 4183 - By Mr. Speaker (Mr. Miley)
and Delegate Armstead)
[By Request of the Executive]**

[Passed March 7, 2014; in effect from passage.]
[Approved by the Governor on March 19, 2014.]

AN ACT supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2014, organization 0803, for the fiscal year ending June 30, 2014.

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 8, 2014, which included a statement of the State Road Fund setting forth therein the cash balances and investments as of July 1, 2013, and further included the estimate of revenues for the fiscal year 2014, less net appropriation balances forwarded and regular appropriations for the fiscal year 2014; and

WHEREAS, It appears from the Statement of the State Road Fund there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2014; therefore

Be it enacted by the Legislature of West Virginia:

That the items of the total appropriations from the State Road Fund, to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2014, organization 0803, be supplemented and amended by increasing existing items of appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Sec. 2. Appropriations from state road fund.**

3 **DEPARTMENT OF TRANSPORTATION**

4 *118--Division of Highways*

5 (WV Code Chapters 17 and 17C)

6 Fund 9017 FY 2014 Org 0803

7			State
8			Road
9			Fund
		Act- ivity	
10	9	Interstate Construction. 278	\$ 7,000,000
11	10	Other Federal Aid Programs. 279	21,000,000
12	11	Appalachian Programs. 280	15,000,000

13 The purpose of this supplemental appropriation bill is to
14 supplement, amend, decrease and increase items of appropriation
15 in the aforesaid account for the designated spending unit for
16 expenditure during the fiscal year ending June 30, 2014.

CHAPTER 12

**(H. B. 4621 - By Delegates Boggs, Guthrie, Iaquinta,
Perdue, Pethel, R. Phillips, D. Poling, Williams,
Canterbury, Cowles and Gearheart)**

[Passed March 8, 2014; in effect from passage.]
[Approved by the Governor on March 19, 2014.]

AN ACT expiring funds to the balance of the Department of Administration, Board of Risk and Insurance Management, Patient Injury Compensation Fund, fund 2371, fiscal year 2014, organization 0218, in the amount of \$2,000,000 from the Department of Administration, Board of Risk and Insurance Management, Medical Liability Fund, fund 2368, fiscal year 2014, organization 0218 for the fiscal year ending June 30, 2014.

WHEREAS, The Governor finds that the account balance in the Department of Administration, Board of Risk and Insurance Management, Medical Liability Fund, fund 2368, fiscal year 2014, organization 0218, exceeds that which is necessary for the purpose for which the account was established; therefore

Be it enacted by the Legislature of West Virginia:

That the balance of funds available for expenditure in the fiscal year ending June 30, 2014, to the Department of Administration, Board of Risk and Insurance Management, Medical Liability Fund, fund 2368, fiscal year 2014, organization 0218, be decreased by expiring the amount of \$2,000,000 to the Department of Administration, Board of Risk and Insurance Management, Patient Injury Compensation fund, fund 2371, fiscal year 2014, organization 0218, to be available for expenditure during the fiscal year ending June 30, 2014.

CHAPTER 13

**(Com. Sub. for S. B. 306 - By Senators Kessler (Mr. President)
and M. Hall)**

[By Request of the Executive]

[Passed March 14, 2014; in effect from passage.]
[Approved by the Governor with certain deletions
and reductions on March 19, 2014.]

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

Be it enacted by the Legislature of West Virginia:

Title

- I. General Provisions.**
- II. Appropriations.**
- III. Administration.**

TITLE I — GENERAL PROVISIONS.

- §1. General policy.
- §2. Definitions.
- §3. Classification of appropriations.
- §4. Method of expenditure.
- §5. Maximum expenditures.

TITLE I — GENERAL PROVISIONS.

1 **Section 1. General policy.** — The purpose of this bill is to
2 appropriate money necessary for the economical and efficient
3 discharge of the duties and responsibilities of the state and its
4 agencies during the fiscal year 2015.

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

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

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

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

9 The “fiscal year 2015” shall mean the period from July 1,
10 2014, through June 30, 2015.

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

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

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

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

3 “Personal services” shall mean salaries, wages and other
4 compensation paid to full-time, part-time and temporary
5 employees of the spending unit but shall not include fees or
6 contractual payments paid to consultants or to independent
7 contractors engaged by the spending unit. “Personal services”

8 shall include “annual increment” for “eligible employees” and
9 shall be disbursed only in accordance with Article 5, Chapter 5
10 of the Code.

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

13 “Employee benefits” shall mean social security matching,
14 workers’ compensation, unemployment compensation, pension
15 and retirement contributions, public employees insurance
16 matching, personnel fees or any other benefit normally paid by
17 the employer as a direct cost of employment. Should the
18 appropriation be insufficient to cover such costs, the remainder
19 of such cost shall be paid by each spending unit from its
20 “unclassified” appropriation, or its “current expenses”
21 appropriation or other appropriate appropriation. Each spending
22 unit is hereby authorized and required to make such payments in
23 accordance with the provisions of Article 2, Chapter 11B of the
24 Code.

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

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

36 Should the appropriation for “BRIM Premium” be
37 insufficient to cover such cost, the remainder of such costs shall
38 be transferred by each spending unit from its “personal services

39 and employee benefits” appropriation, its “unclassified”
40 appropriation, its “current expenses” appropriation or any other
41 appropriate appropriation to “BRIM Premium” for payment to
42 the Board of Risk and Insurance Management. Each spending
43 unit is hereby authorized and required to make such payments.
44 If there is no appropriation for “BRIM Premium” such costs
45 shall be paid by each spending unit from its “current expenses”
46 appropriation or “unclassified” appropriation or other
47 appropriate appropriation.

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

54 “Current expenses” shall mean operating costs other than
55 personal services and shall not include equipment, repairs and
56 alterations, buildings or lands. Each spending unit shall be
57 responsible for and charged monthly for all postage meter
58 service and shall reimburse the appropriate revolving fund
59 monthly for all such amounts. Such expenditures shall be
60 considered a current expense.

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

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

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

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

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

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

80 Appropriations classified in any of the above categories shall
81 be expended only for the purposes as defined above and only for
82 the spending units herein designated: *Provided*, That the
83 secretary of each department shall have the authority to transfer
84 within the department those general revenue funds appropriated
85 to the various agencies of the department: *Provided, however*,
86 That no more than five percent of the general revenue funds
87 appropriated to any one agency or board may be transferred to
88 other agencies or boards within the department: and no funds
89 may be transferred to a “personal services and employee
90 benefits” appropriation unless the source funds are also wholly
91 from a “personal services and employee benefits” line, or unless
92 the source funds are from another appropriation that has
93 exclusively funded employment expenses for at least twelve
94 consecutive months prior to the time of transfer and the
95 position(s) supported by the transferred funds are also
96 permanently transferred to the receiving agency or board within
97 the department: *Provided further*, That the secretary of each
98 department and the director, commissioner, executive secretary,
99 superintendent, chairman or any other agency head not governed
100 by a departmental secretary as established by Chapter 5F of the
101 Code shall have the authority to transfer funds appropriated to
102 “personal services and employee benefits,” “current expenses,”
103 “repairs and alterations,” “equipment,” “other assets,” “land,”
104 and “buildings” to other appropriations within the same account
105 and no funds from other appropriations shall be transferred to the

106 “personal services and employee benefits” or the “unclassified”
 107 appropriation: *And provided further*, That no authority exists
 108 hereunder to transfer funds into appropriations to which no funds
 109 are legislatively appropriated: *And provided further*, That if the
 110 Legislature by subsequent enactment consolidates agencies,
 111 boards or functions, the secretary or other appropriate agency
 112 head may transfer the funds formerly appropriated to such
 113 agency, board or function in order to implement such
 114 consolidation. No funds may be transferred from a Special
 115 Revenue Account, dedicated account, capital expenditure
 116 account or any other account or fund specifically exempted by
 117 the Legislature from transfer, except that the use of the
 118 appropriations from the State Road Fund for the office of the
 119 Secretary of the Department of Transportation is not a use other
 120 than the purpose for which such funds were dedicated and is
 121 permitted.

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

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

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

TITLE II – APPROPRIATIONS.

§1. Appropriations from general revenue.

ADMINISTRATION, DEPARTMENT OF

Administration, Department of – Office of the

Secretary – Fund No. 0186..... 87

Children's Health Insurance Agency – Fund No. 0588.	94
Committee for the Purchase of Commodities and Services from the Handicapped – Fund No. 0233.	93
Consolidated Public Retirement Board – Fund No. 0195.	87
Ethics Commission – Fund No. 0223.	92
Finance, Division of – Fund No. 0203.	88
General Services, Division of – Fund No. 0230.	88
Prosecuting Attorneys' Institute, West Virginia – Fund No. 0557.	93
Public Defender Services – Fund No. 0226.	92
Public Employees Grievance Board – Fund No. 0220.	91
Public Employees Insurance Agency – Fund No. 0200.	93
Purchasing, Division of – Fund No. 0210.	90
Real Estate Division – Fund No. 0610.	94
Travel Management – Fund No. 0615.	90
Uniform State Laws, Commission on – Fund No. 0214.	91

COMMERCE, DEPARTMENT OF

Coal Mine Health and Safety, Board of – Fund No. 0280.	101
Commerce, Department of – Office of the Secretary – Fund No. 0606.	102
Commerce, Department of – Office of the Secretary – Office of Economic Opportunity – Fund No. 0617.	102
Development Office, West Virginia – Fund No. 0256.	96
Energy, Division of – Fund No. 0612	102
Forestry, Division of – Fund No. 0250.	95
Geological and Economic Survey – Fund No. 0253.	95
Labor, Division of – Fund No. 0260.	99
Labor, Division of – Occupational Safety and Health Fund – Fund No. 0616.	99
Miners' Health, Safety and Training, Division of – Fund No. 0277.	100
Natural Resources, Division of – Fund No. 0265.	99
WorkForce WV – Fund No. 0572.	101

EDUCATION, DEPARTMENT OF

State Board of Education – Division of Educational Performance Audits – Fund No. 0573.	109
---	-----

State Board of Education – Vocational Division – Fund No. 0390.	109
State Department of Education – Fund No. 0313.	103
State Department of Education – Aid for Exceptional Children – Fund No. 0314.	107
State Department of Education – School Lunch Program – Fund No. 0303.	103
State Department of Education – State Aid to Schools – Fund No. 0317.	108
State FFA-FHA Camp and Conference Center – Fund No. 0306.	103
West Virginia Schools for the Deaf and the Blind – Fund No. 0320.	110

EDUCATION AND THE ARTS, DEPARTMENT OF

Culture and History, Division of – Fund No. 0293.	112
Education and the Arts, Department of – Office of the Secretary – Fund No. 0294.	111
Educational Broadcasting Authority – Fund No. 0300.	113
Library Commission – Fund No. 0296.	113
State Board of Rehabilitation – Division of Rehabilitation Services – Fund No. 0310.	114

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Air Quality Board – Fund No. 0550.	116
Environmental Protection, Division of – Fund No. 0273.	115
Environmental Quality Board – Fund No. 0270.	115

EXECUTIVE

Agriculture, Department of – Fund No. 0131.	80
Agriculture, Department of – Agricultural Awards–Fund No. 0136.	83
Agriculture, Department of – Meat Inspection– Fund No. 0135.	83
Agriculture, Department of – West Virginia Agricultural Land Protection Authority– Fund No. 0607.	84
Attorney General – Fund No. 0150.	84
Auditor’s Office – General Administration– Fund No. 0116.	79
Governor’s Office – Fund No. 0101.	77

Governor's Office – Civil Contingent Fund– Fund No. 0105.	78
Governor's Office – Custodial Fund–Fund No. 0102.	78
Secretary of State – Fund No. 0155.	85
State Election Commission – Fund No. 0160.	86
Treasurer's Office – Fund No. 0126.	80
West Virginia Conservation Agency – Fund No. 0132.	82

HEALTH AND HUMAN RESOURCES, DEPARTMENT OF

Consolidated Medical Service Fund – Fund No. 0525.	121
Health and Human Resources, Department of – Office of the Secretary – Fund No. 0400.	117
Health, Division of – Central Office–Fund No. 0407.	117
Health, Division of – West Virginia Drinking Water Treatment – Fund No. 0561.	123
Human Services, Division of – Fund No. 0403.	123
Human Rights Commission – Fund No. 0416.	123

HIGHER EDUCATION POLICY COMMISSION

Bluefield State College – Fund No. 0354.	156
Concord University – Fund No. 0357.	156
Fairmont State University – Fund No. 0360.	157
Glenville State College – Fund No. 0363.	157
Higher Education Policy Commission – Administration – Fund No. 0589.	148
Higher Education Policy Commission – Administration – West Virginia Network for Educational Telecomputing (WVNET) – Fund No. 0551.	150
Marshall University – General Administration Fund – Fund No. 0348.	155
Marshall University – School of Medicine – Fund No. 0347.	153
Shepherd University – Fund No. 0366.	157
West Liberty University – Fund No. 0370.	158
West Virginia School of Osteopathic Medicine – Fund No. 0336.	155
West Virginia State University – Fund No. 0373.	158
West Virginia University – General Administrative Fund – Fund No. 0344.	151
West Virginia University – School of Medicine – Medical School Fund – Fund No. 0343.	150

JUDICIAL

Supreme Court – General Judicial – Fund No. 0180.	76
--	----

LEGISLATIVE

House of Delegates – Fund No. 0170.....	73
Joint Expenses – Fund No. 0175.....	75
Senate – Fund No. 0165.....	71

MILITARY AFFAIRS AND PUBLIC SAFETY, DEPARTMENT OF

Adjutant General – Military Fund – Fund No. 0605.....	129
Adjutant General – State Militia – Fund No. 0433.....	128
Corrections, Division of – Central Office – Fund No. 0446.....	130
Corrections, Division of – Correctional Units – Fund No. 0450.....	131
Fire Commission – Fund No. 0436.....	134
Homeland Security and Emergency Management, Division of – Fund No. 0443.....	130
Justice and Community Services, Division of – Fund No. 0546.....	135
Juvenile Services, Division of – Fund No. 0570.....	136
Military Affairs and Public Safety, Department of – Office of the Secretary – Fund No. 0430.....	127
Parole Board, West Virginia – Fund No. 0440.....	129
Protective Services, Division of – Fund No. 0585.....	137
State Police, West Virginia – Fund No. 0453.....	133

REVENUE, DEPARTMENT OF

Office of the Secretary – Fund No. 0465.....	138
Professional and Occupational Licenses – State Athletic Commission – Fund No. 0523.....	140
State Budget Office – Fund No. 0595.....	139
Tax Appeals, West Virginia Office of – Fund 0593.....	139
Tax Division – Fund No. 0470.....	138

SENIOR SERVICES, BUREAU OF

Senior Services, Bureau of – Fund No. 0420.....	144
---	-----

TRANSPORTATION, DEPARTMENT OF

Aeronautics Commission – Fund No. 0582.....	142
Public Port Authority – Fund No. 0581.....	141
Public Transit, Division of – Fund No. 0510.....	141
State Rail Authority – Fund No. 0506.....	140

VETERANS' ASSISTANCE, DEPARTMENT OF

Veterans' Assistance, Division of – Fund No. 0456.	142
Veterans' Assistance, Division of – Veterans Home–Fund No. 0460.	144

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL
COLLEGE EDUCATION

Blue Ridge Community and Technical College – Fund No. 0601.	147
BridgeValley Community and Technical College – Fund No. 0618.	148
Council for Community and Technical College Education – Fund No. 0596.	145
Eastern West Virginia Community and Technical College – Fund No. 0587.	148
Mountwest Community and Technical College – Fund No. 0599.	146
New River Community and Technical College – Fund No. 0600.	146
Pierpont Community and Technical College – Fund No. 0597.	146
Southern West Virginia Community and Technical College – Fund No. 0380.	147
West Virginia Northern Community and Technical College – Fund No. 0383.	147
West Virginia University at Parkersburg – Fund No. 0351.	147

§2. Appropriations from state road fund.

TRANSPORTATION, DEPARTMENT OF

Administrative Hearings, Office of – Fund No. 9027.	160
Highways, Division of – Fund No. 9017.	159
Motor Vehicles, Division of – Fund No. 9007.	158

§3. Appropriations from other funds.

ADMINISTRATION, DEPARTMENT OF

Administration, Department of – Office of the Secretary – Employee Pension and Health Care Benefit Fund – Fund No. 2044.	170
Administration, Department of – Office of the Secretary – Tobacco Settlement Fund – Fund No. 2041.	170

Information Services and Communications,
 Division of – Fund No. 2220. 171
 Personnel, Division of – Fund No. 2440. 174
 Prosecuting Attorneys’ Institute, West Virginia – Fund
 No. 2521. 174
 Purchasing, Division of – Improvement Fund –
 Fund No. 2264. 172
 Purchasing, Division of – Vendor Fee
 Fund – Fund No. 2263. 171
 Risk and Insurance Management, Board of – Premium Tax
 Savings Fund – Fund No. 2367. 173
 Technology, Office of – Fund No. 2531. 175
 Travel Management Aviation Fund – Fund No. 2302. 173
 Travel Management Fleet Management
 Office Fund – Fund No. 2301. 172

COMMERCE, DEPARTMENT OF

Development Office, West Virginia – Broadband
 Development Fund – Fund No. 3174. 177
 Development Office, West Virginia – Department
 of Commerce Marketing and Communications
 Operating Fund – Fund No. 3002. 176
 Energy, Division of – Energy Assistance –
 Fund No. 3010. 182
 Energy, Division of – Office of Coal Field Development –
 Community Development – Fund No. 3011. 182
 Forestry, Division of – Fund No. 3081. 175
 Forestry, Division of – Timbering Operations
 Enforcement Fund – Fund No. 3082. 176
 Geological and Economic Survey – Geological and Analytical
 Services Fund – Fund No. 3100. 176
 Labor, Division of – Amusement Rides/Amusement
 Attraction Safety Fund – Fund No. 3192. 178
 Labor, Division of – Contractor Licensing Board
 Fund – Fund No. 3187. 177
 Labor, Division of – Crane Operator Certification
 Fund – Fund No. 3191. 178
 Labor, Division of – Elevator Safety Act–
 Fund No. 3188. 177
 Labor, Division of – State Manufactured Housing
 Administration Fund – Fund No. 3195. 179
 Labor, Division of – Weights and Measures Fund –
 Fund No. 3196. 179
 Miners’ Health, Safety and Training Fund –
 Fund No. 3355. 182

Natural Resources, Division of – Game, Fish and Aquatic Life Fund – Fund No. 3202.	180
Natural Resources, Division of – License Fund – Wildlife Resources – Fund No. 3200.	179
Natural Resources, Division of – Nongame Fund – Fund No. 3203.	180
Natural Resources, Division of – Planning and Development Division–Fund No. 3205.	181
Natural Resources, Division of–Whitewater Advertising and Promotion Fund–Fund No. 3256.	181
Natural Resources, Division of–Whitewater Study and Improvement Fund–Fund No. 3253.	181
EDUCATION, DEPARTMENT OF	
State Board of Education–Strategic Staff Development–Fund No. 3937.	183
State Department of Education–FFA-FHA Conference Center–Fund No. 3960.	184
State Department of Education–School Building Authority–Fund No. 3959.	183
EDUCATION AND THE ARTS, DEPARTMENT OF	
Culture and History, Division of–Public Records and Preservation Revenue Account – Fund No. 3542.	184
Office of the Secretary–Lottery Education Fund Interest Earnings Control Account–Fund No. 3508.	184
State Board of Rehabilitation–Division of Rehabilitation Services–West Virginia Rehabilitation Center–Special Account– Fund No. 8664.	185
ENVIRONMENTAL PROTECTION, DEPARTMENT OF	
Environmental Protection, Division of– Air Pollution Control Fund – Fund No. 3336.	190
Environmental Protection, Division of– Air Pollution Education and Environment Fund–Fund No. 3024.	186
Environmental Protection, Division of– Environmental Laboratory Certification Fund–Fund No. 3340.	190
Environmental Protection, Division of– Hazardous Waste Emergency and Response Fund – Fund No. 3331.	188
Environmental Protection, Division of– Hazardous Waste Management Fund–Fund No. 3023.	186

Environmental Protection, Division of – Litter Control Fund – Fund No. 3486..	191
Environmental Protection, Division of–Mining and Reclamation Operations Fund–Fund No. 3324..	188
Environmental Protection, Division of–Mountaintop Removal Fund–Fund No. 3490.	191
Environmental Protection, Division of– Oil and Gas Operating Permit and Processing Fund–Fund No. 3323..	187
Environmental Protection, Division of–Oil and Gas Reclamation Fund–Fund No. 3322..	187
Environmental Protection, Division of– Recycling Assistance Fund– Fund No. 3487..	191
Environmental Protection, Division of–Solid Waste Enforcement Fund–Fund No. 3333..	189
Environmental Protection, Division of–Solid Waste Reclamation and Environmental Response Fund–Fund No. 3332.	189
Environmental Protection, Division of–Special Reclamation Fund–Fund No. 3321..	186
Environmental Protection, Division of–Stream Restoration Fund–Fund No. 3349.	190
Environmental Protection, Division of– Underground Storage Tanks Administrative Fund–Fund No. 3325.	188
Oil and Gas Conservation Commission–Fund No. 3371..	192
Solid Waste Management Board–Fund No. 3288.	185

EXECUTIVE

Agriculture, Department of–Agricultural Fees Fund–Fund No. 1401.	166
Agriculture, Department of–Donated Food Fund– Fund No. 1446.	167
Agriculture, Department of–Farm Operating Fund–Fund No. 1412.	167
Agriculture, Department of–General John McCausland Memorial Farm–Fund No. 1409..	167
Agriculture, Department of–Integrated Predation Management Fund – Fund No. 1465.	168
Agriculture, Department of – Spay Neuter Assistance Fund – Fund No. 1481.	168
Agriculture, Department of–West Virginia Rural Rehabilitation Program–Fund No. 1408..	166
Attorney General–Anti-Trust Enforcement– Fund No. 1507.	168

Attorney General–Preneed Funeral Guarantee Fund– Fund No. 1514.	169
Attorney General–Preneed Burial Contract Regulation Fund– Fund No. 1513.	169
Auditor’s Office–Land Operating Fund– Fund No. 1206.	162
Auditor’s Office–Local Government Purchasing Card Expenditure Fund–Fund No. 1224.	163
Auditor’s Office–Office of the Chief Inspector– Fund No. 1235.	165
Auditor’s Office–Purchasing Card Administration Fund–Fund No. 1234.	164
Auditor’s Office–Securities Regulation Fund– Fund No. 1225.	163
Auditor’s Office–Technology Support and Acquisition– Fund No. 1233.	164
Auditor’s Office – Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund – Fund No. 1239.	165
Governor’s Office – Office of Minority Affairs Fund – Fund No. 1058.	162
Secretary of State–General Administrative Fees Account – Fund No. 1617.	170
Secretary of State – Service Fees and Collection Account – Fund No. 1612.	169
Treasurer’s Office – College Prepaid Tuition and Savings Program – Administrative Account – Fund No. 1301.	165
Treasurer’s Office – Technology Support and Acquisition – Fund No. 1329.	166

HEALTH AND HUMAN RESOURCES, DEPARTMENT OF

Health Care Authority, West Virginia – Health Care Cost Review Fund – Fund No. 5375.	196
Health Care Authority, West Virginia – Health Information Network Account – Fund No. 5380.	197
Health Care Authority, West Virginia – Revolving Loan Fund – Fund No. 5382.	197
Health, Division of – Health Facility Licensing – Fund No. 5172.	195
Health, Division of – Hepatitis B Vaccine – Fund No. 5183.	195
Health, Division of – Hospital Services Revenue Account (Special Fund) (Capital Improvement, Renovation and Operations)–Fund No. 5156.	193
Health, Division of–Laboratory Services– Fund No. 5163.	194

Health, Division of–Lead Abatement Fund– Fund No. 5204.	195
Health, Division of–Tobacco Control Special Fund – Fund No. 5218.	196
Health, Division of – Tobacco Settlement Expenditure Fund – Fund No. 5124.	192
Health, Division of – Vital Statistics – Fund No. 5144.	193
Health, Division of – West Virginia Birth to Three Fund – Fund 5214.	196
Human Services, Division of – Child Support Enforcement – Fund No. 5094.	198
Human Services, Division of – Domestic Violence Legal Services Fund – Fund No. 5455.	200
Human Services, Division of – Health Care Provider Tax – Fund No. 5090.	198
Human Services, Division of – James “Tiger” Morton Catastrophic Illness Fund – Fund No. 5454.	199
Human Services, Division of – Marriage Education Fund – Fund No. 5490.	200
Human Services, Division of – Medical Services Trust Fund – Fund No. 5185.	199
Human Service, Division of – WV Works Separate State College Program Fund – Fund No. 5467.	200
Human Service, Division of – WV Works Separate State Two – Parent Program Fund – Fund No. 5468.	200

HIGHER EDUCATION POLICY COMMISSION

Community and Technical College – Capital Improvement Fund – Fund No. 4908.	220
Higher Education Policy Commission – Registration Fee – Capital Improvement and Bond Retirement Fund – Fund No. 4902.	219
Higher Education Policy Commission – Tuition Fee – Capital Improvement and Bond Retirement Fund – Fund No. 4903.	219
Higher Education Policy Commission–Tuition Fee– Revenue Bond Construction Fund–Fund No. 4906.	220
Higher Education Policy Commission–West Virginia University Health Sciences Center–Fund No. 4179.	221

JUDICIAL

Supreme Court - Family Court Fund–Fund No. 1763.	161
--	-----

LEGISLATIVE

Crime Victims Compensation Fund–Fund No. 1731.	161
---	-----

MILITARY AFFAIRS AND PUBLIC SAFETY, DEPARTMENT OF

Corrections, West Virginia Division of–Parolee Supervision Fees–Fund No. 6362.	202
Fire Commission–Fire Marshal Fees–Fund No. 6152.	206
Homeland Security and Emergency Management – Interoperable Radio Project–Fund No. 6295.	202
Justice and Community Service, Division of – Community Corrections Fund – Fund No. 6386.	206
Justice and Community Services, Division of – Court Security Fund–Fund No. 6804.	206
Military Affairs and Public Safety, Department of – Law Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund–Fund No. 6003.	201
Regional Jail and Correctional Facility Authority – Fund No. 6675.	205
State Armory Board–General Armory Fund – Fund No. 6057.	201
State Police, West Virginia – Bail Bond Enforcer Fund – Fund No. 6532.	205
State Police, West Virginia – Central Abuse Registry Fund – Fund No. 6527.	204
State Police, West Virginia – Drunk Driving Prevention Fund – Fund No. 6513.	203
State Police, West Virginia – Motor Vehicle Inspection Fund – Fund No. 6501.	203
State Police, West Virginia – State Police Academy Post Exchange – Fund No. 6544.	205
State Police, West Virginia – Surplus Real Property Proceeds Fund – Fund No. 6516.	204
State Police, West Virginia – Surplus Transfer Account – Fund No. 6519.	204

MISCELLANEOUS BOARDS AND COMMISSIONS

Barbers and Cosmetologists, Board of– Fund No. 5425.	221
Enterprise Resource Planning Board – Fund No. 9080.	227
Examiners for Speech–Language Pathology and Audiology, West Virginia Board of–Fund No. 8646.	225
Hospital Finance Authority–Fund No. 5475.	222
Licensed Dietitians, West Virginia Board of– Fund No. 8680.	226
Licensed Practical Nurses, West Virginia State Board of Examiners for–Fund No. 8517.	222
Massage Therapy Licensure–Fund No. 8671.	226
Medicine, Board of–Fund No. 9070.	226
Public Service Commission–Fund No. 8623.	223

Public Service Commission—Consumer Advocate— Fund No. 8627.	224
Public Service Commission—Gas Pipeline Division—Fund No. 8624.	223
Public Service Commission—Motor Carrier Division—Fund No. 8625.	224
Real Estate Commission—Fund No. 8635.	225
Registered Professional Nurses, West Virginia Board of Examiners for—Fund No. 8520.	222
Respiratory Care, West Virginia Board of— Fund No. 8676.	226
Treasury Investments, Board of—Fund No. 9152.	227

REVENUE, DEPARTMENT OF

Alcohol Beverage Control Administration— Fund No. 7352.	215
Alcohol Beverage Control Administration— Wine License Special Fund—Fund No. 7351.	215
Financial Institutions, Division of—Fund No. 3041.	207
Insurance Commissioner—Fund No. 7152.	211
Insurance Commissioner—Consumer Advocate – Fund No. 7151.	211
Insurance Commissioner—Examination Revolving Fund—Fund No. 7150.	210
Insurance Commissioner—Self-Insured Employer Guaranty Risk Pool—Fund No. 7164.	212
Insurance Commissioner—Self-Insured Employer Security Risk Pool—Fund No. 7165.	212
Insurance Commissioner—Workers' Compensation Old Fund – Fund No. 7162.	212
Insurance Commissioner—Workers' Compensation Uninsured Employers' Fund—Fund No. 7163.	212
Lottery Commission—Revenue Center Construction Fund – Fund No. 7209.	213
Municipal Bond Commission—Fund No. 7253.	213
Office of the Secretary—Revenue Shortfall Reserve Fund – Fund No. 7005.	207
Office of the Secretary—State Debt Reduction Fund—Fund No. 7007.	208
Racing Commission—Administration and Promotion—Fund No. 7304.	214
Racing Commission—Administration, Promotion and Education Fund—Fund No. 7307.	214
Racing Commission—General Administration— Fund No. 7305.	214
Racing Commission—Relief Fund—Fund No. 7300.	213

State Budget Office–Public Employees Insurance Reserve Fund–Fund No. 7400.	210
Tax Division–Cemetery Company Account– Fund No. 7071.	208
Tax Division – Reduced Cigarette Ignition Propensity Standard and Fire Protection Act Fund – Fund No. 7092.	209
Tax Division–Special Audit and Investigative Unit–Fund No. 7073.. . . .	209
Tax Division–Local Sales Tax and Excise Tax Administration Fund–Fund No. 7099.	210
Tax Division–Wine Tax Administration Fund– Fund No. 7087.	209
SENIOR SERVICES, BUREAU OF	
Senior Services, Bureau of–Community Based Service Fund–Fund No. 5409.	218
TRANSPORTATION, DEPARTMENT OF	
Highways, Division of – A. James Manchin Fund – Fund No. 8319.	217
Motor Vehicles, Division of – Dealer Recovery Fund – Fund No. 8220.	216
Motor Vehicles, Division of – Motor Vehicle Fees Fund – Fund No. 8223.	216
Public Port Authority – Special Railroad and Intermodal Enhancement Fund – Fund No. 8254.	217
VETERANS’ ASSISTANCE, DEPARTMENT OF	
Veterans’ Assistance, Department of – Veterans’ Facilities Support Fund – Fund No. 6703.	217
Veterans’ Affairs, Department of – Veterans’ Home – Fund No. 6754.	218
§4. Appropriations from lottery net profits.	
APPROPRIATIONS	
Community and Technical College Capital Improvement Fund–Fund No. 4908.	246
Culture and History, Division of–Lottery Education Fund–Fund No. 3534.	232
Development Office, West Virginia–Division of Tourism–Fund No. 3067.	229
Education and the Arts, Department of–Office of the Secretary–Control Account–Lottery Education Fund–Fund No. 3508.	231
Education, Arts, Sciences and Tourism Debt Service Fund–Fund No. 2252.	228
Education, State Department of–Fund No. 3951.	230

Education, State Department of–School Building Authority–Debt Service Fund–Fund No. 3963.....	231
Higher Education Policy Commission–Lottery Education–Higher Education Policy Commission– Fund No. 4925.....	244
Higher Education Policy Commission–Lottery Education – Marshall University – Fund No. 4267.....	247
Higher Education Policy Commission–Lottery Education – Marshall University – School of Medicine – Fund No. 4896.....	247
Higher Education Policy Commission–Lottery Education – West Virginia University – School of Medicine – Fund No. 4185.....	246
Library Commission–Lottery Education Fund– Fund No. 3559.....	242
Natural Resources, Division of–Fund No. 3267.....	229
Senior Services, Bureau of–Fund No. 5405.....	243

§5. Appropriations from state excess lottery revenue fund.

APPROPRIATIONS

Corrections, Division of–Correctional Units– Fund No. 6283.....	254
Development Office–Fund No. 3170.....	252
Economic Development Authority – Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund – Fund No. 9067.....	250
Economic Development Authority–Economic Development Project Fund–Fund No. 9065.....	250
Education, State Department of–Fund No. 3517.....	253
Governor’s Office–Fund No. 1046.....	252
Health, Division of–Central Office–Fund No. 5219.....	253
Higher Education Improvement Fund–Fund No. 4297.....	251
Higher Education Policy Commission– Administration – Control Account – Fund No. 4932.....	253
Higher Education Policy Commission– Education Improvement Fund – Fund No. 4295.....	249
Infrastructure Council, West Virginia – Fund No. 3390.....	250
Lottery Commission – Excess Lottery Revenue Fund Surplus – Fund No. 7208.....	252
Lottery Commission – General Purpose Account – Fund No. 7206.....	249
Lottery Commission – Refundable Credit – Fund No. 7207.....	249
Natural Resources, Division of – State Park Improvement Fund – Fund No. 3277.....	251
School Building Authority – Fund No. 3514.....	250

Racing Commission – Fund No. 7308.....	251
West Virginia Infrastructure Council – Fund No. 3390.....	250

§6. Appropriations of federal funds.

ADMINISTRATION, DEPARTMENT OF

Children’s Health Insurance Agency – Fund No. 8838.....	257
---	-----

COMMERCE, DEPARTMENT OF

Development Office, West Virginia – Fund No. 8705.....	258
Economic Opportunity, Office of – Fund No. 8780.....	260
Energy, Division of – Fund No. 8892.....	261
Forestry, Division of – Fund No. 8703.....	257
Geological and Economic Survey – Fund No. 8704.....	258
Labor, Division of – Fund No. 8706.....	259
Miners’ Health, Safety and Training, Division of – Fund No. 8709.....	259
Natural Resources, Division of – Fund No. 8707.....	259
WorkForce WV – Fund No. 8835.....	260

EDUCATION, DEPARTMENT OF

State Board of Education – Vocational Division – Fund No. 8714.....	262
State Department of Education – Fund No. 8712.....	261
State Department of Education – Aid for Exceptional Children – Fund No. 8715.....	262
State Department of Education – School Lunch Program – Fund No. 8713.....	262

EDUCATION AND THE ARTS, DEPARTMENT OF

Culture and History, Division of – Fund No. 8718.....	263
Educational Broadcasting Authority – Fund No. 8721.....	264
Education and the Arts, Department of – Office of the Secretary – Fund No. 8841.....	263
Library Commission – Fund No. 8720.....	264
Rehabilitation, State Board of – Division of Rehabilitation Services – Fund No. 8734.....	264
Rehabilitation, State Board of – Division of Rehabilitation Services – Disability Determination Services – Fund No. 8890.....	265

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Environmental Protection, Division of – Fund No. 8708.....	265
---	-----

EXECUTIVE

Agriculture, Department of – Fund No. 8736. 255

Agriculture, Department of – Land Protection
 Authority – Fund No. 8896. 256

Agriculture, Department of – Meat Inspection –
 Fund No. 8737. 256

Agriculture, Department of – State Conservation
 Committee – Fund No. 8783. 256

Governor’s Office – Fund No. 8742. 255

Secretary of State–State Election Fund –
 Fund No. 8854. 257

HEALTH AND HUMAN RESOURCES, DEPARTMENT OF

Consolidated Medical Service Fund–Fund
 No. 8723. 265

Health, Division of–Central Office–Fund
 No. 8802. 266

Health, Division of–West Virginia Safe
 Drinking Water Treatment–Fund No. 8824. 266

Human Rights Commission–Fund No. 8725. 267

Human Services, Division of–Fund No. 8722. 267

West Virginia Health Care Authority–
 Fund No. 8851. 266

LEGISLATIVE

Crime Victims Compensation Fund–Fund
 No. 8738. 254

JUDICIAL

Supreme Court–Consolidated Federal Funds–
 Fund No. 8867. 255

MILITARY AFFAIRS AND PUBLIC SAFETY, DEPARTMENT OF

Adjutant General–State Militia–Fund
 No. 8726. 268

Adjutant General–West Virginia National Guard
 Counterdrug Forfeiture Fund – Fund No. 8726. 268

Corrections, Division of–Fund No. 8836. 269

Fire Commission–Fund No. 8819. 270

Homeland Security and Emergency Management,
 Division of–Fund No. 8727. 269

Justice and Community Services, Division of–
 Fund No. 8803. 270

Office of the Secretary–Fund No. 8876. 268

State Police, West Virginia–Fund No. 8741. 269

MISCELLANEOUS BOARDS AND COMMISSIONS

Coal Heritage Highway Authority–Fund No. 8861. 274

National Coal Heritage Area Authority– Fund No. 8869.	274
Public Service Commission–Gas Pipeline Division–Fund No. 8744.	274
Public Service Commission–Motor Carrier Division–Fund No. 8743.	273
REVENUE, DEPARTMENT OF	
Insurance Commission–Fund No. 8883.	271
Tax Division–Consolidated Federal Fund– Fund No. 8899.	270
SENIOR SERVICES, BUREAU OF	
Senior Services, Bureau of–Fund No. 8724.	273
TRANSPORTATION, DEPARTMENT OF	
Motor Vehicles, Division of–Fund No. 8787.	271
Public Port Authority–Fund No. 8830.	272
Public Transit, Division of–Fund No. 8745.	271
VETERANS’ ASSISTANCE, DEPARTMENT OF	
Veterans’ Assistance, Department of – Fund No. 8858.	272
Veterans’ Assistance, Department of – Veterans’ Home – Fund No. 8728.	272
§7. Appropriations from federal block grants.	
APPROPRIATIONS	
Commerce, Division of – Office of Economic Opportunity – Community Services – Fund No. 8781.	276
Development Office, West Virginia–Community Development–Fund No. 8746.	275
Health, Division of–Community Mental Health Services–Fund No. 8794.	277
Health, Division of–Maternal and Child Health–Fund No. 8750.	276
Health, Division of–Preventive Health– Fund No. 8753.	276
Health, Division of–Substance Abuse Prevention and Treatment–Fund No. 8793.	277
Human Services, Division of–Child Care and Development–Fund No. 8817.	278
Human Services, Division of–Energy Assistance–Fund No. 8755.	277
Human Services, Division of–Social Services– Fund No. 8757.	277
Human Services, Division of–Temporary Assistance Needy Families–Fund No. 8816.	278

Justice and Community Services, Division of –
 Juvenile Accountability Incentive – Fund No. 8829. 278
 WorkForce West Virginia–Workforce Investment Act–
 Fund No. 8749. 275

§8. Awards for claims against the state.

§9. Appropriations from General Revenue Surplus Accrued.
 Tax Division. 279

§10. Special Revenue Appropriations.
 §11. State Improvement Fund Appropriations.
 §12. Specific funds and collection accounts.
 §13. Appropriations for refunding erroneous payment.
 §14. Sinking fund deficiencies.
 §15. Appropriations for local governments.
 §16. Total appropriations.
 §17. General school fund.

1 **Section 1. Appropriations from general revenue. —**
 2 From the State Fund, General Revenue, there are hereby
 3 appropriated conditionally upon the fulfillment of the provisions
 4 set forth in Article 2, Chapter 11B the following amounts, as
 5 itemized, for expenditure during the fiscal year 2015.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2015 Org 2100

	Appro- piation	General Revenue Fund
1 Compensation of Members (R). 00300	\$	1,010,000
2 Compensation and Per Diem of		
3 Officers and Employees (R). 00500		3,208,620
4 Employee Benefits (R).. 01000		802,712
5 Current Expenses and Contingent		
6 Fund (R).. 02100		526,392

7	Repairs and Alterations (R).	06400	50,000
8	Computer Supplies (R)..	10100	20,000
9	Computer Systems (R)..	10200	60,000
10	Printing Blue Book (R).	10300	125,000
11	Expenses of Members (R).	39900	620,000
12	BRIM Premium (R)..	91300	<u>29,482</u>
13	Total..		\$ 6,452,206

14 The appropriations for the Senate for the fiscal year 2014 are
 15 to remain in full force and effect and are hereby reappropriated
 16 to June 30, 2015. Any balances so reappropriated may be
 17 transferred and credited to the fiscal year 2014 accounts.

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

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

32 The Clerk of the Senate, with the approval of the President,
 33 or the President of the Senate shall have authority to employ
 34 such staff personnel during any session of the Legislature as
 35 shall be needed in addition to staff personnel authorized by the
 36 Senate resolution adopted during any such session. The Clerk of
 37 the Senate, with the approval of the President, or the President
 38 of the Senate shall have authority to employ such staff personnel
 39 between sessions of the Legislature as shall be needed, the

40 compensation of all staff personnel during and between sessions
 41 of the Legislature, notwithstanding any such Senate resolution,
 42 to be fixed by the President of the Senate. The Clerk is hereby
 43 authorized to draw his or her requisitions upon the Auditor for
 44 the payment of all such staff personnel for such services, payable
 45 out of the appropriation for Compensation and Per Diem of
 46 Officers and Employees or Current Expenses and Contingent
 47 Fund of the Senate.

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

54 The distribution of the blue book shall be by the office of the
 55 Clerk of the Senate and shall include 75 copies for each member
 56 of the Legislature and two copies for each classified and
 57 approved high school and junior high or middle school and one
 58 copy for each elementary school within the state.

2 - House of Delegates

Fund 0170 FY 2015 Org 2200

1	Compensation of Members (R). 00300	\$	3,000,000
2	Compensation and Per Diem of		
3	Officers and Employees (R). 00500		575,000
4	Current Expenses and Contingent		
5	Fund (R)..... 02100		4,429,031
6	Expenses of Members (R). 39900		1,350,000
7	BRIM Premium (R)..... 91300		<u>50,000</u>
8	Total.....	\$	9,404,031

9 The appropriations for the House of Delegates for the fiscal
 10 year 2014 are to remain in full force and effect and are hereby

11 reappropriated to June 30, 2015. Any balances so reappropriated
12 may be transferred and credited to the fiscal year 2014 accounts.

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

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

27 The Speaker of the House of Delegates, upon approval of the
28 House committee on rules, shall have authority to employ such
29 staff personnel during and between sessions of the Legislature as
30 shall be needed, in addition to personnel designated in the House
31 resolution, and the compensation of all personnel shall be as
32 fixed in such House resolution for the session, or fixed by the
33 Speaker, with the approval of the House committee on rules,
34 during and between sessions of the Legislature, notwithstanding
35 such House resolution. The Clerk of the House of Delegates is
36 hereby authorized to draw requisitions upon the Auditor for such
37 services, payable out of the appropriation for the Compensation
38 and Per Diem of Officers and Employees or Current Expenses
39 and Contingent Fund of the House of Delegates.

40 For duties imposed by law and by the House of Delegates,
41 including salary allowed by law as keeper of the rolls, the Clerk
42 of the House of Delegates shall be paid a monthly salary as
43 provided in the House resolution, unless increased between

44 sessions under the authority of the Speaker, with the approval of
 45 the House committee on rules, and payable out of the
 46 appropriation for Compensation and Per Diem of Officers and
 47 Employees or Current Expenses and Contingent Fund of the
 48 House of Delegates.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2015 Org 2300

1	Joint Committee on Government and		
2	Finance (R).	10400	\$ 6,758,015
3	Legislative Printing (R).	10500	760,000
4	Legislative Rule-Making Review		
5	Committee (R)	10600	147,250
6	Legislative Computer System (R). .	10700	902,500
7	BRIM Premium (R).	91300	<u>27,692</u>
8	Total.		\$ 8,595,457

9 The appropriations for the joint expenses for the fiscal year
 10 2014 are to remain in full force and effect and are hereby
 11 reappropriated to June 30, 2015. Any balances reappropriated
 12 may be transferred and credited to the fiscal year 2014 accounts.

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

20 The appropriation for the Tax Reduction and Federal
 21 Funding Increased Compliance (TRAFFIC) (fund 0175,
 22 appropriation 64200) is intended for possible general state tax

23 reductions or the offsetting of any reductions in federal funding
24 for state programs.

JUDICIAL

4 - Supreme Court – General Judicial

Fund 0180 FY 2015 Org 2400

1	Personal Services and Employee	
2	Benefits (R) 00100	\$ 98,955,687
3	Children’s Protection Act (R) 09000	2,682,072
4	Current Expenses (R) 13000	21,090,110
5	Repairs and Alterations (R) 06400	715,000
6	Equipment (R) 07000	3,100,000
7	Judges’ Retirement System (R) 11000	2,456,000
8	Buildings 25800	750,000
9	Other Assets (R) 69000	1,750,000
10	BRIM Premium (R) 91300	314,124
11	Total	\$ 131,812,993

12 The appropriations to the Supreme Court of Appeals for the
13 fiscal years 2013 and 2014 are to remain in full force and effect
14 and are hereby reappropriated to June 30, 2015. Any balances so
15 reappropriated may be transferred and credited to the fiscal year
16 2014 accounts.

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

22 The appropriation for the Judges’ Retirement System (fund
23 0180, appropriation 11000) is to be transferred to the
24 Consolidated Public Retirement Board, in accordance with the

25 law relating thereto, upon requisition of the Administrative
26 Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2015 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,416,000
3	Current Expenses (R)	13000	545,858
4	Repairs and Alterations.	06400	2,000
5	GO HELP (R)	11600	250,651
6	National Governors Association. . .	12300	60,700
7	Herbert Henderson Office of Minority		
8	Affairs.	13400	156,726
9	Southern Governors' Association. .	31400	40,000
10	BRIM Premium.	91300	<u>151,851</u>
11	Total.		\$ 4,623,786

12 Any unexpended balances remaining in the appropriations
13 for Unclassified (fund 0101, appropriation 09900), GO HELP
14 (fund 0101, appropriation 11600), Current Expenses (fund 0101,
15 appropriation 13000), and JOBS Fund (fund 0101, appropriation
16 66500) at the close of the fiscal year 2014 are hereby
17 reappropriated for expenditure during the fiscal year 2015 with
18 the exception of fund 0101, fiscal year 2014, appropriation
19 11600 (\$120,000) which shall expire on June 30, 2014.

20 Included in the above appropriation to Personal Services and
21 Employee Benefits (fund 0101, appropriation 00100), is
22 \$150,000 for the Salary of the Governor.

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

6 - *Governor's Office –
Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2015 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 369,370
3	Current Expenses (R).	13000	214,166
4	Repairs and Alterations.	06400	<u>5,000</u>
5	Total.		\$ 588,536

6 Any unexpended balance remaining in the appropriation for
7 Current Expenses (fund 0102, appropriation 13000) at the close
8 of the fiscal year 2014 is hereby reappropriated for expenditure
9 during the fiscal year 2015.

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

7 - *Governor's Office –
Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2015 Org 0100

1 Any unexpended balances remaining in the appropriations
2 for Business and Economic Development Stimulus – Surplus
3 (fund 0105, appropriation 08400), Civil Contingent Fund – Total
4 (fund 0105, appropriation 11400), 2012 Natural Disasters –
5 Surplus (fund 0105, appropriation 13500), Civil Contingent
6 Fund – Total – Surplus (fund 0105, appropriation 23800), Civil
7 Contingent Fund – Surplus (fund 0105, appropriation 26300),
8 Business and Economic Development Stimulus (fund 0105,
9 appropriation 58600), Civil Contingent Fund (fund 0105,

10 appropriation 61400), and Natural Disasters – Surplus (fund
 11 0105, appropriation 76400) at the close of the fiscal year 2014
 12 are hereby reappropriated for expenditure during the fiscal year
 13 2015.

14 From this fund there may be expended, at the discretion of
 15 the Governor, an amount not to exceed \$1,000 as West
 16 Virginia’s contribution to the interstate oil compact commission.

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

*8 - Auditor’s Office –
 General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2015 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,245,598
3	Enterprise Resource Planning System		
4	Planning Project.. . . .	08700	1,250,000
5	Current Expenses (R)..	13000	10,622
6	BRIM Premium.	91300	<u>10,451</u>
7	Total..		\$ 4,516,671

8 Any unexpended balances remaining in the appropriations
 9 for Unclassified – Surplus (fund 0116, appropriation 09700), and
 10 Current Expenses (fund 0116, appropriation 13000) at the close
 11 of the fiscal year 2014 are hereby reappropriated for expenditure
 12 during the fiscal year 2015 with the exception of fund 0116,
 13 fiscal year 2014, appropriation 13000 (\$60,000) which shall
 14 expire on June 30, 2014.

15 Included in the above appropriation to Personal Services and
 16 Employee Benefits (fund 0116, appropriation 00100), is \$95,000
 17 for the Salary of the Auditor.

18 The above appropriation to Enterprise Resource Planning
 19 System Planning Project (fund 0116, appropriation 08700) shall
 20 be transferred to the Enterprise Resource Planning System Fund
 21 (fund 9080).

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2015 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,708,085
3	Unclassified.	09900	34,050
4	Current Expenses (R).....	13000	386,062
5	Abandoned Property Program.	11800	162,878
6	Other Assets.....	69000	10,000
7	Tuition Trust Fund (R).....	69200	73,207
8	BRIM Premium.	91300	<u>30,809</u>
9	Total.....		\$ 3,405,091

10 Any unexpended balances remaining in the appropriations
 11 for Current Expenses (fund 0126, appropriation 13000) and
 12 Tuition Trust Fund (fund 0126, appropriation 69200) at the close
 13 of the fiscal year 2014 are hereby reappropriated for expenditure
 14 during the fiscal year 2015.

15 Included in the above appropriation to Personal Services and
 16 Employee Benefits (fund 0126, appropriation 00100), is \$95,000
 17 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2015 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 6,172,623
3	Animal Identification Program.	03900	185,846
4	State Farm Museum.	05500	104,500
5	Unclassified (R).	09900	67,969
6	Current Expenses (R).	13000	264,826
7	Repairs and Alterations.	06400	30,000
8	Equipment.	07000	23,402
9	Gypsy Moth Program (R).	11900	1,183,090
10	Huntington Farmers Market.	12800	43,866
11	Black Fly Control (R).	13700	537,116
12	Donated Foods Program.	36300	50,000
13	Predator Control (R).	47000	200,000
14	Logan Farmers Market.	50100	46,948
15	Bee Research.	69100	77,994
16	Charleston Farmers Market.	74600	84,360
17	Microbiology Program (R).	78500	117,928
18	Moorefield Agriculture Center (R).	78600	1,137,851
19	Chesapeake Bay Watershed.	83000	127,462
20	Livestock Care Standards Board.	84300	15,000
21	BRIM Premium.	91300	120,202
22	Threat Preparedness.	94200	82,417
23	WV Food Banks.	96900	115,000
24	Senior's Farmers' Market Nutrition		
25	Coupon Program.	97000	<u>62,173</u>
26	Total.		\$ 10,850,573

27 Any unexpended balances remaining in the appropriations
 28 for Unclassified – Surplus (fund 0131, appropriation 09700),
 29 Unclassified (fund 0131, appropriation 09900), Gypsy Moth
 30 Program (fund 0131, appropriation 11900), Current Expenses
 31 (fund 0131, appropriation 13000), Black Fly Control (fund 0131,
 32 appropriation 13700), Predator Control (fund 0131,
 33 appropriation 47000), Capital Outlay, Repairs and Equipment –

34 Surplus (fund 0131, appropriation 67700), Capital Outlay and
 35 Maintenance (fund 0131, appropriation 75500), Microbiology
 36 Program (fund 0131, appropriation 78500), Moorefield
 37 Agriculture Center (fund 0131, appropriation 78600), and
 38 Agricultural Disaster and Mitigation Needs – Surplus (fund
 39 0131, appropriation 85000) at the close of the fiscal year 2014
 40 are hereby reappropriated for expenditure during the fiscal year
 41 2015 with the exception of fund 0131, fiscal year 2014,
 42 appropriation 11900 (\$60,000) which shall expire on June 30,
 43 2014.

44 Included in the above appropriation to Personal Services and
 45 Employee Benefits (fund 0131, appropriation 00100), is \$95,000
 46 for the Salary of the Commissioner.

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

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

55 From the above appropriation for WV Food Banks (fund
 56 0131, appropriation 96900), \$20,000 is for House of Hope and
 57 the remainder of the appropriation shall be allocated to the
 58 Huntington Food Bank and the Mountaineer Food Bank in
 59 Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2015 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 769,762

Ch. 13]	APPROPRIATIONS	83
3	Unclassified (R)..... 09900	88,255
4	Current Expenses (R)..... 13000	329,080
5	Repairs and Alterations. 06400	10,000
6	Equipment. 07000	10,000
7	Soil Conservation Projects (R).... 12000	7,592,149
8	BRIM Premium. 91300	<u>26,326</u>
9	Total.....	\$ 8,825,572

10 Any unexpended balances remaining in the appropriations
 11 for Unclassified (fund 0132, appropriation 09900), Soil
 12 Conservation Projects (fund 0132, appropriation 12000), and
 13 Current Expenses (fund 0132, appropriation 13000) at the close
 14 of the fiscal year 2014 are hereby reappropriated for expenditure
 15 during the fiscal year 2015 with the exception of fund 0132,
 16 fiscal year 2014, appropriation 12000 (\$1,600,000) which shall
 17 expire on June 30, 2014.

12 - *Department of Agriculture –
 Meat Inspection*

(WV Code Chapter 19)

Fund 0135 FY 2015 Org 1400

1	Personal Services and Employee	
2	Benefits. 00100	\$ 625,968
3	Unclassified. 09900	7,182
4	Current Expenses..... 13000	<u>96,344</u>
5	Total.....	\$ 729,494

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

13 - *Department of Agriculture –
 Agricultural Awards*

(WV Code Chapter 19)

Fund 0136 FY 2015 Org 1400

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

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

(WV Code Chapter 8A)

Fund 0607 FY 2015 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 102,969
3	Unclassified.	09900	<u>950</u>
4	Total.....		\$ 103,919

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2015 Org 1500

1	Personal Services and Employee		
2	Benefits (R).....	00100	\$ 3,588,895
3	Unclassified (R).....	09900	57,461
4	Current Expenses (R).....	13000	600,508
5	Repairs and Alterations.	06400	7,500
6	Equipment.	07000	40,000
7	Criminal Convictions and Habeas		
8	Corpus Appeals (R).....	26000	1,202,374
9	Better Government Bureau.	74000	328,110
10	BRIM Premium.	91300	<u>67,646</u>
11	Total.....		\$ 5,892,494

12 Any unexpended balances remaining in the above
13 appropriations for Personal Services and Employee Benefits
14 (fund 0150, appropriation 00100), Employee Benefits (fund
15 0150, appropriation 01000), Unclassified (fund 0150,
16 appropriation 09900), Current Expenses (fund 0150,
17 appropriation 13000), Criminal Convictions and Habeas Corpus
18 Appeals (fund 0150, appropriation 26000), Agency Client
19 Revolving Liquidity Pool (fund 0150, appropriation 36200),
20 Equipment – Surplus (fund 0150, appropriation 34100),
21 Technology Improvements – Surplus (fund 0150, appropriation
22 72500), and Operating Expenses – Surplus (fund 0150,
23 appropriation 77900) at the close of the fiscal year 2014 are
24 hereby reappropriated for expenditure during the fiscal year
25 2015 with the exception of fund 0150, fiscal year 2014,
26 appropriation 00100 (\$180,000) and fund 0150, fiscal year 2014,
27 appropriation 01000 (\$20,000) which shall expire on June 30,
28 2014.

29 Included in the above appropriation to Personal Services and
30 Employee Benefits (fund 0150, appropriation 00100), is \$95,000
31 for the Salary of the Attorney General.

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

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2015 Org 1600

1	Personal Services and Employee		
2	Benefits. 00100	\$	120,926
3	Unclassified (R). 09900		11,217
4	Current Expenses (R). 13000		981,395
5	BRIM Premium. 91300		<u>16,000</u>
6	Total.....	\$	1,129,538

7 Any unexpended balances remaining in the appropriations
8 for Unclassified (fund 0155, appropriation 09900), Current
9 Expenses (fund 0155, appropriation 13000), and Technology
10 Improvements – Surplus (fund 0155, appropriation 72500) at the
11 close of the fiscal year 2014 are hereby reappropriated for
12 expenditure during the fiscal year 2015 with the exception of
13 fund 0155, fiscal year 2014, appropriation 13000 (\$50,000)
14 which shall expire on June 30, 2014.

15 Included in the above appropriation to Personal Services and
16 Employee Benefits (fund 0155, appropriation 00100), is \$95,000
17 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2015 Org 1601

1	Personal Services and Employee		
2	Benefits. 00100	\$	2,477
3	Unclassified. 09900		83
4	Current Expenses. 13000		<u>5,782</u>
5	Total.....	\$	8,342

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

(WV Code Chapter 5F)

Fund 0186 FY 2015 Org 0201

1	Personal Services and Employee		
2	Benefits.	00100	\$ 586,359
3	Unclassified.	09900	9,397
4	Current Expenses.	13000	94,350
5	Repairs and Alterations.	06400	100
6	Equipment.	07000	5,000
7	Financial Advisor (R)..	30400	210,546
8	Lease Rental Payments.	51600	15,000,000
9	Design-Build Board.	54000	4,000
10	Other Assets.	69000	4,000
11	BRIM Premium.	91300	<u>4,000</u>
12	Total.		\$ 15,917,752

13 Any unexpended balance remaining in the appropriation for
14 Financial Advisor (fund 0186, appropriation 30400) at the close
15 of the fiscal year 2014 is hereby reappropriated for expenditure
16 during the fiscal year 2015 with the exception of fund 0186,
17 fiscal year 2014, appropriation 30400 (\$190,000) which shall
18 expire on June 30, 2014.

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

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2015 Org 0205

1 The division of highways, division of motor vehicles, public
 2 service commission and other departments, bureaus, divisions,
 3 or commissions operating from special revenue funds and/or
 4 federal funds shall pay their proportionate share of the retirement
 5 costs for their respective divisions. When specific appropriations
 6 are not made, such payments may be made from the balances in
 7 the various special revenue funds in excess of specific
 8 appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2015 Org 0209

1	Personal Services and Employee		
2	Benefits.	00100	\$ 119,556
3	Unclassified.	09900	2,400
4	Current Expenses.	13000	114,462
5	Repairs and Alterations.	06400	1,500
6	Equipment.	07000	1,000
7	GAAP Project (R).	12500	609,334
8	Other Assets.	69000	2,000
9	BRIM Premium.	91300	<u>4,526</u>
10	Total.		\$ 854,778

11 Any unexpended balance remaining in the appropriation for
 12 GAAP Project (fund 0203, appropriation 12500) at the close of
 13 the fiscal year 2014 is hereby reappropriated for expenditure
 14 during the fiscal year 2015 with the exception of fund 0203,
 15 fiscal year 2014, appropriation 12500 (\$90,000) which shall
 16 expire on June 30, 2014.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2015 Org 0211

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,649,774
3	Unclassified.	09900	20,000
4	Current Expenses.	13000	867,865
5	Repairs and Alterations.	06400	10,000
6	Equipment.	07000	5,000
7	Fire Service Fee.	12600	14,000
8	Buildings (R).	25800	1,000
9	Preservation and Maintenance of		
10	Statues and Monuments		
11	on Capitol Grounds.	37100	68,000
12	Capital Outlay, Repairs and		
13	Equipment.	58900	4,500,000
14	Other Assets.	69000	1,000
15	Land (R).	73000	500
16	BRIM Premium.	91300	<u>112,481</u>
17	Total.		\$ 8,249,620

18 Any unexpended balances remaining in the above
19 appropriations for Buildings (fund 0230, appropriation 25800)
20 and Land (fund 0230, appropriation 73000) at the close of the
21 fiscal year 2014 are hereby reappropriated for expenditure
22 during the fiscal year 2015.

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

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

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2015 Org 0213

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,022,743
3	Unclassified.	09900	1,444
4	Current Expenses.	13000	74,970
5	Repairs and Alterations.	06400	700
6	Equipment.	07000	1,000
7	Other Assets.	69000	1,000
8	BRIM Premium.	91300	<u>6,167</u>
9	Total.		\$ 1,108,024

10 The division of highways shall reimburse Fund 2031 within
 11 the division of purchasing for all actual expenses incurred
 12 pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2015 Org 0215

1	Personal Services and Employee		
2	Benefits.	00100	\$ 929,418
3	Unclassified.	09900	15,885
4	Current Expenses.	13000	441,945
5	Repairs and Alterations.	06400	200,000
6	Equipment.	07000	5,000
7	Buildings (R).	25800	100
8	Other Assets.	69000	<u>4,000</u>
9	Total.		\$ 1,596,348

10 Any unexpended balance remaining in the appropriation for
 11 Buildings (fund 0615, appropriation 25800) at the close of the

12 fiscal year 2014 is hereby reappropriated for expenditure during
 13 the fiscal year 2015.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2015 Org 0217

1	Unclassified.	09900	\$	465
2	Current Expenses.	13000		<u>46,085</u>
3	Total.		\$	46,550

4 To pay expenses for members of the commission on uniform
 5 state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2015 Org 0219

1	Personal Services and Employee			
2	Benefits.	00100	\$	921,756
3	Unclassified.	09900		1,000
4	Current Expenses (R).	13000		166,959
5	Repairs and Alterations.	06400		500
6	Equipment.	07000		500
7	Other Assets.	69000		500
8	BRIM Premium.	91300		<u>5,200</u>
9	Total.		\$	1,096,415

10 Any unexpended balances remaining in the appropriations
 11 for Current Expenses (fund 0220, appropriation 13000),
 12 Buildings (fund 0220, appropriation 25800), and Land (fund
 13 0220, appropriation 73000) at the close of the fiscal year 2014
 14 are hereby reappropriated for expenditure during the fiscal year
 15 2015.

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2015 Org 0220

1	Personal Services and Employee		
2	Benefits.	00100	\$ 572,306
3	Unclassified.	09900	4,500
4	Current Expenses.	13000	128,530
5	Repairs and Alterations.	06400	500
6	Other Assets.	69000	100
7	BRIM Premium.	91300	2,800
8	Total.		\$ 708,736

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2015 Org 0221

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,022,620
3	Unclassified	09900	317,137
4	Public Defender Corporations.	35200	19,804,466
5	Appointed Counsel Fees (R).	78800	10,723,115
6	BRIM Premium.	91300	2,893
7	Total.		\$ 31,870,231

8 Any unexpended balance remaining in the above
9 appropriation for Appointed Counsel Fees (fund 0226,
10 appropriation 78800) at the close of the fiscal year 2014 is
11 hereby reappropriated for expenditure during the fiscal year
12 2015.

13 The director shall have the authority to transfer funds from
14 the appropriation to Public Defender Corporations (fund 0226,
15 appropriation 35200) to Appointed Counsel Fees (fund 0226,
16 appropriation 78800).

*28 - Committee for the Purchase of
Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2015 Org 0224

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,187
3	Current Expenses.	13000	<u>1,868</u>
4	Total.		\$ 5,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2015 Org 0225

1 The division of highways, division of motor vehicles, public
2 service commission and other departments, bureaus, divisions,
3 or commissions operating from special revenue funds and/or
4 federal funds shall pay their proportionate share of the public
5 employees health insurance cost for their respective divisions.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2015 Org 0228

1	Forensic Medical Examinations (R).68300	\$	140,676
2	Federal Funds/Grant Match (R).		<u>101,075</u>
3	Total.	\$	241,751

4 Any unexpended balances remaining in the appropriations
5 for Forensic Medical Examinations (fund 0557, appropriation
6 68300) and Federal Funds/Grant Match (fund 0557,
7 appropriation 74900) at the close of the fiscal year 2014 are

8 hereby reappropriated for expenditure during the fiscal year
9 2015.

31 - Children's Health Insurance Agency

(WV Code Chapter 5)

Fund 0588 FY 2015 Org 0230

1	Personal Services and Employee		
2	Benefits. 00100	\$	112,493
3	Current Expenses. 13000		9,379,734
4	Autism Spectrum Disorder		
5	Coverage. 85600		<u>497,035</u>
6	Total.....	\$	<u>9,989,262</u>

32 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2015 Org 0233

1	Personal Services and Employee		
2	Benefits. 00100	\$	790,757
3	Unclassified. 09900		2,000
4	Current Expenses. 13000		198,763
5	Repairs and Alterations. 06400		1,000
6	Equipment. 07000		5,000
7	Other Assets..... 69000		500
8	BRIM Premium. 91300		<u>4,200</u>
9	Total.....	\$	<u>1,002,220</u>

10 Any unexpended balances remaining in the appropriations
11 for Buildings (fund 0610, appropriation 25800) and Land (fund
12 0610, appropriation 73000) at the close of the fiscal year 2014
13 are hereby reappropriated for expenditure during the fiscal year
14 2015.

DEPARTMENT OF COMMERCE*33 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2015 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,950,423
3	Unclassified.	09900	21,435
4	Current Expenses.	13000	1,213,953
5	Repairs and Alterations.	06400	183,000
6	Equipment (R).	07000	475,000
7	BRIM Premium.	91300	<u>85,000</u>
8	Total.		\$ 5,928,811

9 Any unexpended balance remaining in the appropriation for
10 Equipment (fund 0250, appropriation 07000) at the close of the
11 fiscal year 2014 is hereby reappropriated for expenditure during
12 the fiscal year 2015.

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

34 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2015 Org 0306

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,656,792
3	Unclassified.	09900	30,720
4	Current Expenses.	13000	96,178
5	Repairs and Alterations.	06400	10,000
6	Equipment.	07000	100

7	Mineral Mapping System (R).	20700	1,262,177
8	Other Assets.	69000	100
9	BRIM Premium.	91300	<u>16,000</u>
10	Total.		\$ 3,072,067

11 Any unexpended balance remaining in the appropriation for
 12 Mineral Mapping System (fund 0253, appropriation 20700) at
 13 the close of the fiscal year 2014 is hereby reappropriated for
 14 expenditure during the fiscal year 2015.

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

35 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2015 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,616,383
3	ARC-WV Home of Your Own		
4	Alliance.	04800	33,744
5	Unclassified.	09900	1,733,640
6	Current Expenses.	13000	0
7	Repairs and Alterations.	06400	0
8	Equipment.	07000	0
9	Southern WV Career Center.	07100	414,840
10	Infrastructure Projects.	07900	570,917
11	Partnership Grants (R).	13100	517,781
12	Local Economic Development		
13	Partnerships (R).	13300	1,650,000
14	ARC Assessment.	13600	152,585
15	Mid-Atlantic Aerospace Complex.	23100	149,134
16	Guaranteed Work Force Grant (R)..	24200	1,053,123

17	Robert C. Byrd Institute for		
18	Advanced/Flexible Manufacturing -		
19	Technology Outreach and Programs		
20	for Environmental and Advanced		
21	Technologies.	36700	438,504
22	Advantage Valley.	38900	59,546
23	Chemical Alliance Zone.	39000	40,099
24	WV High Tech Consortium.	39100	198,906
25	Regional Contracting Assistance		
26	Center.	41800	*208,215
27	Highway Authorities.	43100	732,078
28	Charleston Farmers Market.	47600	0
29	International Offices (R).	59300	529,867
30	WV Manufacturing Extension		
31	Partnership.	73100	121,478
32	Polymer Alliance.	75400	97,014
33	Regional Councils.	78400	371,184
34	Mainstreet Program.	79400	173,701
35	National Institute of Chemical		
36	Studies.	80500	59,474
37	Local Economic Development		
38	Assistance (R).	81900	*1,850,000
39	I-79 Development Council.	82400	46,296
40	Mingo County Post Mine Land Use		
41	Projects	84100	250,000
42	BRIM Premium.	91300	26,096
43	Hatfield McCoy Recreational Trail.	96000	210,900
44	Hardwood Alliance Zone.	99200	<u>35,937</u>
45	Total.		\$ 19,347,167

* CLERKS NOTE: The Governor reduced the amount in the Item 35, line 26 from \$375,000 to \$208,215 and line 38 from \$4,688,940 to \$1,850,000. The total does NOT reflect the reduction made by the Governor.

46 Any unexpended balances remaining in the appropriations
47 for Unclassified – Surplus (fund 0256, appropriation 09700),
48 Partnership Grants (fund 0256, appropriation 13100), Local
49 Economic Development Partnerships (fund 0256, appropriation
50 13300), Guaranteed Work Force Grant (fund 0256, appropriation
51 24200), Industrial Park Assistance (fund 0256, appropriation
52 48000), Small Business Development (fund 0256, appropriation
53 70300), Local Economic Development Assistance (fund 0256,
54 appropriation 81900), and 4-H Camp Improvements (fund 0256,
55 appropriation 94100) at the close of the fiscal year 2014 are
56 hereby reappropriated for expenditure during the fiscal year
57 2015 with the exception of fund 0256, fiscal year 2014,
58 appropriation 24200 (\$105,000) and fund 0256, fiscal year 2014,
59 appropriation 70300, (\$30,000) which shall expire on June 30,
60 2014.

61 The above appropriation to Local Economic Development
62 Partnerships (fund 0256, appropriation 13300) shall be used by
63 the West Virginia Development Office for the award of funding
64 assistance to county and regional economic development
65 corporations or authorities participating in the certified
66 development community program developed under the
67 provisions of W.Va. Code §5B-2-14. The West Virginia
68 development office shall award the funding assistance through
69 a matching grant program, based upon a formula whereby
70 funding assistance may not exceed \$34,000 per county served by
71 an economic development or redevelopment corporation or
72 authority.

73 ***

74

75

76 From the above appropriation for Highway Authorities (fund
77 0256, appropriation 43100), \$106,548 is for King Coal Highway
78 Authority; \$106,548 is for Coal Field Expressway Authority;

* CLERK'S NOTE: The Governor deleted language on lines 73
through 75.

79 \$85,239 is for Coal Heritage Highway Authority; \$85,239 is for
 80 Coal Heritage Area Authority; \$42,620 is for Little Kanawha
 81 River Parkway; \$76,715 is for Midland Trail Scenic Highway
 82 Association; \$48,585 is for Shawnee Parkway Authority;
 83 \$85,239 is for Corridor G Regional Development Authority;
 84 \$52,725 is for Corridor H Authority; and \$42,620 is for Route 2
 85 I68 Highway Authority.

36 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,324,132
3	Unclassified.	09900	28,746
4	Current Expenses.	13000	564,685
5	Repairs and Alterations.	06400	30,000
6	Equipment.	07000	10,000
7	BRIM Premium.	91300	22,752
8	Total.		\$ 2,980,315

*37 - Division of Labor –
Occupational Safety and Health Fund*

(WV Code Chapter 21)

Fund 0616 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 91,149
3	Current Expenses.	13000	79,963
4	Repairs and Alterations.	06400	500
5	Equipment.	07000	500
6	BRIM Premium.	91300	985
7	Total.		\$ 173,097

38 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2015 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 15,930,227
3	Unclassified.	09900	11,220
4	Current Expenses.	13000	57,416
5	Repairs and Alterations.	06400	400
6	Equipment.	07000	500
7	Buildings (R).	25800	400
8	Litter Control Conservation		
9	Officers.	56400	149,634
10	Upper Mud River Flood Control.	65400	168,904
11	Other Assets.	69000	200
12	Land (R).	73000	400
13	Law Enforcement.	80600	2,774,110
14	BRIM Premium.	91300	<u>293,374</u>
15	Total.		\$ 19,386,785

16 Any unexpended balances remaining in the appropriations
 17 for Buildings (fund 0265, appropriation 25800) and Land (fund
 18 0265, appropriation 73000) at the close of the fiscal year 2014
 19 are hereby reappropriated for expenditure during the fiscal year
 20 2015.

21 Any revenue derived from mineral extraction at any state
 22 park shall be deposited in a special revenue account of the
 23 division of natural resources, first for bond debt payment
 24 purposes and with any remainder to be for park operation and
 25 improvement purposes.

39 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2015 Org 0314

1	Personal Services and Employee		
2	Benefits. 00100	\$	10,544,078
3	Unclassified. 09900		120,000
4	Current Expenses. 13000		1,870,667
5	Coal Dust and Rock Dust Sampling. 27000		574,333
6	BRIM Premium. 91300		<u>68,134</u>
7	Total.	\$	13,177,212
8	Included in the above appropriation for Current Expenses		
9	(fund 0277, appropriation 13000) is \$500,000 for the Southern		
10	West Virginia Community and Technical College Mine Rescue		
11	and Rapid Response Team.		

40 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2015 Org 0319

1	Personal Services and Employee		
2	Benefits. 00100	\$	293,847
3	Unclassified. 09900		4,270
4	Current Expenses. 13000		<u>131,594</u>
5	Total.	\$	429,711

41 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2015 Org 0323

1	Personal Services and Employee		
2	Benefits. 00100	\$	29,342
3	Unclassified. 09900		812
4	Current Expenses. 13000		<u>51,132</u>
5	Total.	\$	81,286

*42 - Department of Commerce –
Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2015 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 332,881
3	Unclassified.	09900	3,500
4	Current Expenses.	13000	<u>29,560</u>
5	Total.		\$ 365,941

*43 - Department of Commerce –
Office of the Secretary –
Office of Economic Opportunity*

Fund 0617 FY 2015 Org 0327

1	Office of Economic Opportunity. . .	03400	\$ 109,695
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44 - Division of Energy

(WV Code Chapter 5H)

Fund 0612 FY 2015 Org 0328

1	Personal Services and Employee		
2	Benefits.	00100	\$ 229,843
3	Unclassified.	09900	16,490
4	Current Expenses.	13000	1,401,974
5	BRIM Premium.	91300	<u>3,297</u>
6	Total.		\$ 1,651,604

7 From the above appropriation for Current Expenses (fund
8 0612, appropriation 13000) \$593,375 is for West Virginia
9 University and \$593,375 is for Southern West Virginia

- 10 Community and Technical College for the Mine Training and
- 11 Energy Technologies Academy.

DEPARTMENT OF EDUCATION

*45 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2015 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 366,411
3	Unclassified.	09900	24,950
4	Current Expenses.	13000	<u>2,118,150</u>
5	Total.		\$ 2,509,511

*46 - State Board of Education –
State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 0306 FY 2015 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 600,273
3	Current Expenses.	13000	128,033
4	BRIM Premium.	91300	<u>21,694</u>
5	Total.		\$ 750,000

*47 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2015 Org 0402

- 1 Personal Services and Employee

104	APPROPRIATIONS	[Ch. 13
2	Benefits. 00100	\$ 4,353,127
3	Teachers' Retirement Savings	
4	Realized. 09500	28,253,000
5	Unclassified (R). 09900	300,000
6	Current Expenses (R). 13000	*2,672,390
7	Technology System Specialist. 06200	2,000,000
8	Repairs and Alterations. 06400	50,000
9	Equipment. 07000	5,000
10	Increased Enrollment. 14000	5,200,000
11	Safe Schools. 14300	5,046,093
12	Teacher Mentor (R). 15800	592,034
13	National Teacher Certification (R). 16100	150,000
14	Buildings (R). 25800	1,000
15	Allowance for County Transfers. . . 26400	463,186
16	Technology Repair and	
17	Modernization. 29800	951,003
18	HVAC Technicians. 35500	492,029
19	Early Retirement Notification	
20	Incentive. 36600	300,000
21	MATH Program. 36800	366,532
22	Assessment Programs. 39600	2,339,588
23	21 st Century Fellows. 50700	274,899
24	English as a Second Language. 52800	100,000
25	Teacher Reimbursement. 57300	297,188
26	Hospitality Training. 60000	319,005
27	Hi-Y Youth in Government. 61600	100,000
28	High Acuity Special Needs (R). . . . 63400	1,500,000
29	Foreign Student Education. 63600	90,148
30	State Teacher of the Year. 64000	45,453
31	Principals Mentorship. 64900	69,250
32	State Board of Education	
33	Administrative Costs. 68400	364,242
34	Other Assets. 69000	1,000

* **CLERK'S NOTE:** The Governor reduced the amount in the Item 47, line 6 from \$2,797,390 to \$2,672,390. The total does NOT reflect the reduction made by the Governor.

Ch. 13]	APPROPRIATIONS	105
35	Land (R).....	73000
36	Local Solutions Dropout Prevention	
37	and Recovery.....	78000
38	Elementary/Middle Alternative	
39	Schools.....	83300
40	21 st Century Innovation Zones.....	87600
41	21 st Century Learners (R).....	88600
42	Technology Initiatives.....	90100
43	BRIM Premium.....	91300
44	High Acuity Health Care Needs	
45	Program.....	92000
46	21 st Century Assessment and	
47	Professional Development.....	93100
48	21 st Century Technology Infrastructure	
49	Network	
50	Tools and Support (R).....	93300
51	WV Commission on Holocaust	
52	Education.....	93500
53	Regional Education Service	
54	Agencies.....	97200
55	Educational Program Allowance... ..	99600
56	Total.....	\$ 80,301,878

57 The above appropriations include funding for the state board
58 of education and their executive office.

59 Any unexpended balances remaining in the appropriations
60 for Unclassified (fund 0313, appropriation 09900), Current
61 Expenses (fund 0313, appropriation 13000), Teacher Mentor
62 (fund 0313, appropriation 15800), National Teacher Certification
63 (fund 0313, appropriation 16100), Buildings (fund 0313,
64 appropriation 25800), High Acuity Special Needs (fund 0313,
65 appropriation 63400), Land (fund 0313, appropriation 73000),

* CLERK'S NOTE: The Governor reduced the amount in the Item 47, line 40 from \$466,144 to \$266,144 and line 41 from \$2,187,598 to \$2,062,598. The total does NOT reflect the reduction made by the Governor.

66 and 21st Century Learners (fund 0313, appropriation 88600) at
67 the close of the fiscal year 2014 are hereby reappropriated for
68 expenditure during the fiscal year 2015.

69 The above appropriation for Technology System Specialists
70 (fund 0313, appropriation 06200), shall first be used for the
71 continuance of current pilot projects. The remaining balance, if
72 any, may be used to expand the pilot project for additional
73 counties.

74 The above appropriation for Teachers' Retirement Savings
75 Realized (fund 0313, appropriation 09500) shall be transferred
76 to the Employee Pension and Health Care Benefit Fund (fund
77 2044).

78 Included in the above appropriation for Current Expenses
79 (fund 0313, appropriation 13000) is \$50,000 for the fourth year
80 of a five year special community development school pilot
81 program per W.Va. Code 18-3-12.

82 The above appropriation for Hospitality Training (fund
83 0313, appropriation 60000), shall be allocated only to entities
84 that have a plan approved for funding by the Department of
85 Education, at the funding level determined by the State
86 Superintendent of Schools. Plans shall be submitted to the State
87 Superintendent of Schools to be considered for funding.

88 The above appropriation for Local Solutions Dropout
89 Prevention and Recovery (fund 0313, appropriation 78000) shall
90 be transferred to the Local Solutions Dropout Prevention and
91 Recovery Fund (fund 3949).

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97 From the above appropriation for Educational Program
98 Allowance (fund 0313, appropriation 99600), \$100,000 shall be
99 expended for Webster County Board of Education for Hacker
100 Valley; \$150,000 for the Randolph County Board of Education
101 for Pickens School; and \$100,000 shall be for the Preston
102 County Board of Education for the Aurora School; \$100,000
103 shall be for the Fayette County Board of Education for Meadow
104 Bridge; and *\$66,250 is for Project Based Learning in STEM
105 fields.

*48 - State Board of Education –
Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2015 Org 0402

1	Special Education – Counties. 15900	\$	7,271,757
2	Special Education – Institutions. 16000		3,707,066
3	Education of Juveniles Held in		
4	Predispositional		
5	Juvenile Detention Centers. 30200		643,713
6	Education of Institutionalized Juveniles		
7	and Adults (R). 47200		<u>17,422,284</u>
8	Total.	\$	29,044,820

9 Any unexpended balance remaining in the appropriation for
10 Education of Institutionalized Juveniles and Adults (fund 0314,
11 appropriation 47200) at the close of the fiscal year 2014 is

* **CLERK’S NOTE:** The Governor deleted language on lines 92 through 96 and reduced the amount on line 104 from \$85,000 to \$66,250.

12 hereby reappropriated for expenditure during the fiscal year
13 2015.

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

*49 - State Board of Education –
State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2015 Org 0402

1	Other Current Expenses.....	02200	\$ 156,038,610
2	Advanced Placement.....	05300	493,019
3	Professional Educators.....	15100	879,823,269
4	Service Personnel.....	15200	297,285,730
5	Fixed Charges.....	15300	104,857,682
6	Transportation.....	15400	84,322,967
7	Professional Student Support		
8	Services.....	65500	37,927,850
9	Improved Instructional Programs. .	15600	45,694,460
10	21st Century Strategic Technology		
11	Learning Growth.....	93600	13,883,686
12	Basic Foundation Allowances.....		<u>1,620,327,273</u>
13	Less Local Share.....		(432,672,795)
14	Total Basic State Aid.....		1,187,654,478
15	Public Employees' Insurance		
16	Matching.....	01200	225,160,105
17	Teachers' Retirement System.	01900	70,862,116
18	School Building Authority.....	45300	23,312,770
19	Retirement Systems – Unfunded		
20	Liability.....	77500	<u>343,553,000</u>
21	Total.....		\$ 1,850,542,469

22 An additional \$20,000,000 is appropriated in fund 7007,
23 organization 0701.

*50 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2015 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,464,099
3	Unclassified.	09900	280,000
4	Current Expenses.	13000	918,886
5	Wood Products – Forestry Vocational		
6	Program.	14600	63,265
7	Albert Yanni Vocational Program. .	14700	131,951
8	Vocational Aid.	14800	22,244,919
9	Adult Basic Education.	14900	4,449,549
10	Program Modernization.	30500	884,313
11	High School Equivalency Diploma		
12	Testing.	72600	1,065,638
13	FFA Grant Awards.	83900	11,496
14	Pre-Engineering Academy		
15	Program.	84000	<u>265,294</u>
16	Total.		\$ 31,779,410

17 Any unexpended balance remaining in the appropriation for
18 GED Testing (fund 0390, appropriation 33900) at the close of
19 the fiscal year 2014 is hereby reappropriated for expenditure
20 during the fiscal year 2015.

*51 - State Board of Education –
Division of Education Performance Audits*

(WV Code Chapters 18 and 18A)

Fund 0573 FY 2015 Org 0402

1	Personal Services and Employee		
2	Benefits. 00100	\$	903,590
3	Unclassified. 09900		7,000
4	Current Expenses. 13000		942,099
5	Repairs and Alterations. 06400		1,000
6	Equipment. 07000		1,000
7	Other Assets. 69000		1,000
8	Total.....	\$	1,855,689

*52 - State Board of Education –
West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2015 Org 0403

1	Personal Services and Employee		
2	Benefits. 00100	\$	11,421,199
3	Unclassified. 09900		107,329
4	Current Expenses. 13000		1,373,380
5	Repairs and Alterations. 06400		75,000
6	Equipment. 07000		35,000
7	Buildings (R). 25800		25,000
8	Other Assets. 69000		25,000
9	Capital Outlay and Maintenance (R)75500		62,500
10	BRIM Premium. 91300		68,628
11	Total.....	\$	13,193,036

12 Any unexpended balances remaining in the appropriations
13 for Buildings (fund 0320, appropriation 25800) and Capital
14 Outlay and Maintenance (fund 0320, appropriation 75500) at the
15 close of the fiscal year 2014 are hereby reappropriated for
16 expenditure during the fiscal year 2015.

DEPARTMENT OF EDUCATION AND THE ARTS

53 - Department of Education and the Arts –
Office of the Secretary

(WV Code Chapter 5F)

Fund 0294 FY 2015 Org 0431

1	Personal Services and Employee		
2	Benefits.	00100	\$ 877,066
3	Unclassified.	09900	35,000
4	Current Expenses.	13000	27,818
5	Center for Professional		
6	Development (R).	11500	2,351,357
7	National Youth Science Camp	13200	246,500
8	WV Humanities Council.	16800	450,000
9	Benedum Professional Development		
10	Collaborative (R).	42700	805,895
11	Governor’s Honors Academy (R). . .	47800	600,780
12	Educational Enhancements.	69500	*200,000
13	Energy Express.	86100	470,000
14	BRIM Premium.	91300	4,509
15	Special Olympic Games.	96600	25,000
16	Total.		\$ 6,243,925

17 Any unexpended balances remaining in the appropriations
 18 for Center for Professional Development (fund 0294,
 19 appropriation 11500), Benedum Professional Development
 20 Collaborative (fund 0294, appropriation 42700), Governor’s
 21 Honors Academy (fund 0294, appropriation 47800), and
 22 Educational Enhancements – Surplus (fund 0294, appropriation
 23 92700) at the close of the fiscal year 2014 are hereby
 24 reappropriated for expenditure during the fiscal year 2015 with

* **CLERK’S NOTE:** The Governor reduced the amounts in the Item 53, line 12, from \$350,000 to \$200,000; line 28, from \$250,000 to \$125,000; and line 29, from \$100,000 to \$75,000. The total does NOT reflect the reduction made by the Governor.

112

APPROPRIATIONS

[Ch. 13

25 the exception of fund 0294, fiscal year 2014, appropriation
26 11500 (\$60,000) which shall expire on June 30, 2014.

27 Included in the above appropriation for Educational
28 Enhancements (fund 0294, appropriation 69500) is *\$125,000
29 for Reconnecting McDowell - Save the Children, and *\$75,000
30 for the Clay Center.

54 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2015 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,939,681
3	Unclassified (R).....	09900	44,177
4	Current Expenses.....	13000	810,103
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	1
7	Buildings (R).	25800	1
8	Other Assets.....	69000	1
9	Land (R).....	73000	1
10	Culture and History Programming..	73200	236,298
11	Capital Outlay and		
12	Maintenance (R).	75500	20,000
13	Historical Highway Marker		
14	Program.	84400	64,855
15	BRIM Premium.	91300	<u>33,677</u>
16	Total.....		\$ 5,149,795

17 Any unexpended balances remaining in the appropriations
18 for Unclassified (fund 0293, appropriation 09900), Buildings
19 (fund 0293, appropriation 25800), Capital Outlay, Repairs and
20 Equipment (fund 0293, appropriation 58900), Capital
21 Improvements – Surplus (fund 0293, appropriation 66100),

22 Capital Outlay, Repairs and Equipment – Surplus (fund 0293,
 23 appropriation 67700), Land (fund 0293, appropriation 73000),
 24 and Capital Outlay and Maintenance (fund 0293, appropriation
 25 75500) at the close of the fiscal year 2014 are hereby
 26 reappropriated for expenditure during the fiscal year 2015.

27 The Current Expense appropriation includes funding for the
 28 arts funds, department programming funds, grants, fairs and
 29 festivals and Camp Washington Carver and shall be expended
 30 only upon authorization of the division of culture and history and
 31 in accordance with the provisions of Chapter 5A, Article 3, and
 32 Chapter 12 of the Code.

55 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2015 Org 0433

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,384,278
3	Current Expenses.	13000	171,140
4	Repairs and Alterations.	06400	6,500
5	Services to Blind & Handicapped.	18100	161,722
6	BRIM Premium.	91300	<u>15,177</u>
7	Total.		\$ 1,738,817

56 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2015 Org 0439

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,276,138
3	Current Expenses (R).	13000	234,370
4	Mountain Stage.	24900	300,000

5	Capital Outlay and		
6	Maintenance (R).	75500	50,000
7	BRIM Premium.	91300	<u>41,929</u>
8	Total.		\$ 4,902,437

9 Any unexpended balances remaining in the appropriations
 10 for Current Expenses (fund 0300, appropriation 13000) and
 11 Capital Outlay and Maintenance (fund 0300, appropriation
 12 75500) at the close of the fiscal year 2014 are hereby
 13 reappropriated for expenditure during the fiscal year 2015.

14 From the above appropriation for Current Expenses (fund
 15 0300, appropriation 13000) up to \$45,000 is for the WV Music
 16 Hall of Fame and \$100,000 for Healthy Choices Children
 17 Television Program in conjunction with WVSOM.

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

(WV Code Chapter 18)

Fund 0310 FY 2015 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,597,682
3	Independent Living Services.	00900	500,000
4	Current Expenses.	13000	545,202
5	Workshop Development	16300	2,116,149
6	Supported Employment Extended		
7	Services.	20600	100,000
8	Ron Yost Personal Assistance		
9	Fund (R).	40700	388,698
10	Employment Attendant Care		
11	Program	59800	156,065
12	BRIM Premium.	91300	<u>67,033</u>
13	Total.		\$ 14,470,829

14 Any unexpended balance remaining in the appropriation for
 15 Ron Yost Personal Assistance Fund (fund 0310, appropriation
 16 40700) at the close of the fiscal year 2014 is hereby
 17 reappropriated for expenditure during the fiscal year 2015.

18 From the above appropriation for Workshop Development
 19 (fund 0310, appropriation 16300), funds shall be used
 20 exclusively with the private non-profit community rehabilitation
 21 program organizations known as work centers or sheltered
 22 workshops. The appropriation shall also be used to continue the
 23 support of the program, services, and individuals with
 24 disabilities currently in place at those organizations.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

58 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2015 Org 0311

1	Personal Services and Employee		
2	Benefits.	00100	\$ 92,396
3	Current Expenses.	13000	30,691
4	Repairs and Alterations.	06400	100
5	Equipment.	07000	717
6	Other Assets.	69000	600
7	BRIM Premium.	91300	<u>684</u>
8	Total.....		\$ 125,188

59 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,395,867

116	APPROPRIATIONS	[Ch. 13
3	Water Resources Protection and	
4	Management. 06800	586,101
5	Current Expenses. 13000	319,988
6	Repairs and Alterations. 06400	13,150
7	Equipment. 07000	11,100
8	Dam Safety. 60700	219,268
9	West Virginia Stream Partners	
10	Program. 63700	77,396
11	Meth Lab Cleanup. 65600	227,388
12	Other Assets. 69000	13,683
13	WV Contribution to River	
14	Commissions. 77600	148,485
15	Office of Water Resources	
16	Non-Enforcement Activity. 85500	948,152
17	BRIM Premium. 91300	<u>56,802</u>
18	Total.	\$ 7,017,380

19 A portion of the appropriation for Current Expenses (fund
20 0273, appropriation 13000) and Dam Safety (fund 0273,
21 appropriation 60700) may be transferred to the special revenue
22 fund Dam Safety Rehabilitation Revolving Fund (fund 3025) for
23 the state deficient dams rehabilitation assistance program.

60 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2015 Org 0325

1	Personal Services and Employee	
2	Benefits. 00100	\$ 74,670
3	Current Expenses. 13000	10,746
4	Repairs and Alterations. 06400	50
5	Equipment. 07000	579
6	Other Assets. 69000	200
7	BRIM Premium. 91300	<u>2,013</u>
8	Total.	\$ 88,258

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

*61 - Department of Health and Human Resources –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2015 Org 0501

1	Personal Services and Employee		
2	Benefits.	00100	\$ 187,015
3	Unclassified.	09900	5,880
4	Current Expenses.	13000	22,116
5	Women's Commission (R).	19100	156,028
6	Commission for the Deaf and		
7	Hard of Hearing.	70400	<u>217,019</u>
8	Total.		\$ 588,058

9 Any unexpended balance remaining in the appropriation for
10 the Women's Commission (fund 0400, appropriation 19100) at
11 the close of the fiscal year 2014 is hereby reappropriated for
12 expenditure during the fiscal year 2015 with the exception of
13 fund 0400, fiscal year 2014, appropriation 19100 (\$30,000)
14 which shall expire on June 30, 2014.

*62 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 11,840,185
3	Chief Medical Examiner.	04500	5,488,315
4	Unclassified.	09900	750,319
5	Current Expenses.	13000	4,381,898
6	State Aid for Local and Basic Public		
7	Health Services.	18400	16,650,040
8	Safe Drinking Water Program.	18700	1,953,570

9	Women, Infants and Children.	21000	38,609
10	Early Intervention.	22300	2,844,884
11	Cancer Registry.	22500	198,335
12	CARDIAC Project.	37500	427,500
13	State EMS Technical Assistance.	37900	1,350,995
14	Statewide EMS Program		
15	Support (R).	38300	961,580
16	Primary Care Centers -		
17	Mortgage Finance.	41300	*229,003
18	Black Lung Clinics	46700	170,885
19	Center for End of Life.	54500	420,198
20	Pediatric Dental Services.	55000	51,888
21	Vaccine for Children	55100	333,815
22	Tuberculosis Control	55300	368,833
23	Maternal and Child Health Clinics,		
24	Clinicians, Medical Contracts		
25	and Fees (R).	57500	6,281,162
26	Epidemiology Support.	62600	1,504,806
27	Primary Care Support.	62800	8,869,314
28	Health Right Free Clinics.	72700	4,064,219
29	Capital Outlay and		
30	Maintenance (R).	75500	100,000
31	Healthy Lifestyles.	77800	146,282
32	Emergency Response Entities -		
33	Special Projects (R).	82200	0
34	Maternal Mortality Review.	83400	47,068
35	Osteoporosis and Arthritis		
36	Prevention.	84900	158,918
37	Diabetes Education and Prevention.	87300	97,125
38	Tobacco Education Program (R).	90600	4,871,887
39	BRIM Premium.	91300	211,214
40	State Trauma and Emergency		

* CLERK'S NOTE: The Governor reduced the amount in the Item 62, line 17 from \$343,505 to \$229,003. The total does NOT reflect the reduction made by the Governor.

41	Care System.....	91800	<u>1,848,077</u>
42	Total.....		\$ 76,775,426

43 Any unexpended balances remaining in the appropriations
 44 for Unclassified – Surplus (fund 0407, appropriation 09700),
 45 Statewide EMS Program Support (fund 0407, appropriation
 46 38300), Maternal and Child Health Clinics, Clinicians and
 47 Medical Contracts and Fees (fund 0407, appropriation 57500),
 48 Capital Outlay and Maintenance (fund 0407, appropriation
 49 75500), Emergency Response Entities – Special Projects (fund
 50 0407, appropriation 82200), Assistance to Primary Health Care
 51 Centers Community Health Foundation (fund 0407,
 52 appropriation 84500), and Tobacco Education Program (fund
 53 0407, appropriation 90600) at the close of the fiscal year 2014
 54 are hereby reappropriated for expenditure during the fiscal year
 55 2015, with the exception of fund 0407, fiscal year 2009,
 56 appropriation 57500, fund 0407, fiscal year 2010, appropriation
 57 57500, fund 0407, fiscal year 2011, appropriation 57500, fund
 58 0407, fiscal year 2010, appropriation 38300, fund 0407, fiscal
 59 year 2012, appropriation 38300 and with the exception of fund
 60 0407, fiscal year 2014, appropriation 57500 (\$500,000) fund
 61 0407, fiscal year 2014, appropriation 75500 (\$400,000) fund
 62 0407, fiscal year 2014, appropriation 82200 (\$111,000) and fund
 63 0407, fiscal year 2014, appropriation 90600 (\$2,000,000) which
 64 shall expire on June 30, 2014.

65 From the above appropriation for Current Expenses (fund
 66 0407, appropriation 13000), an amount not less than \$100,000 is
 67 for the West Virginia Cancer Coalition; \$50,000 shall be
 68 expended for the West Virginia Aids Coalition; \$100,000 is for
 69 Adolescent Immunization Education; \$73,065 is for informal
 70 dispute resolution relating to nursing home administrative
 71 appeals; and \$50,000 is for Hospital Hospitality House of
 72 Huntington.

73 From the above appropriation for Maternal and Child Health
 74 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,

75 appropriation 57500) \$400,000 shall be transferred to the Breast
76 and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and
77 \$11,000 is for the Marshall County Health Department for dental
78 services.

79 Included in the above appropriation for Primary Care
80 Centers - Mortgage Finance (fund 0407, appropriation 41300) is
81 *\$15,279 for the mortgage payment for the Lincoln Primary
82 Care Center, Inc.; *\$16,239 for the mortgage payment for the
83 Monroe Health Center; *\$13,007 for the mortgage payment for
84 Roane County Family Health Care, Inc.; *\$14,668 for the
85 mortgage payment for Community Care (formerly Primary Care
86 Systems); *\$6,112 for the mortgage payment for the Belington
87 Community Medical Services; *\$9,167 for the mortgage
88 payment for Community Care (formerly Tri-County Health
89 Clinic); *\$4,584 for the mortgage payment for Valley Health
90 Care (Randolph); *\$8,117 for the mortgage payment for
91 WomenCare (Family Care Health Center - Madison); *\$2,445
92 for the mortgage payment for Northern Greenbrier Health Clinic;
93 *\$3,879 for the mortgage payment for the Women's Care, Inc.
94 (Putnam); *\$6,112 for the mortgage payment for the North Fork
95 Clinic (Pendleton); *\$12,223 for the mortgage payment for the
96 Pendleton Community Care; *\$11,735 for the mortgage payment
97 for Clay-Battelle Community Health Center; *\$15,119 for the

*CLERK'S NOTE: The Governor reduced the amount in the Item 62, line 81 from \$22,919 to \$15,279; line 82, from \$24,359 to \$16,239; line 83, from \$19,510 to \$13,007; line 84, from \$22,002 to \$14,668; line 86 from \$9168 to \$6,112; line 87, from \$13,751 to \$9,167; line 89, from \$6,876 to \$4,584; line 90, from \$12,176 to \$8,117; line 91, from \$3,667 to \$2,445; line 93, from \$5,819 to \$3,879; line 94, from \$9,168 to \$6,112; line 95, from \$18,335 to \$12,223; line 96, from \$17,602 to \$11,735; line 97, from \$22,678 to \$15,119; line 99, from \$15,401 to \$10,267; line 100, from \$5,959 to \$3,673; line 102, from \$12,835 to \$8,557; line 103, from \$20,627 to \$13,751; line 104, from \$22,002 to \$14,668; line 105, from \$24,752 to \$16,501; line 107, from \$20,627 to \$13,751; and line 108, from \$13,274 to \$8,849. The total does NOT reflect the reduction made by the Governor.

98 mortgage payment for Monongahela Valley Association of
 99 Health Centers, Inc. (Marion); *\$10,267 for the mortgage
 100 payment for Mountaineer Community Health Center; *\$3,973
 101 for the mortgage payment for the St. George Medical Clinic;
 102 *\$8,557 for the mortgage payment for the Bluestone Health
 103 Center; *\$13,751 for the mortgage payment for Wheeling Health
 104 Right; *\$14,668 for the mortgage payment for the Minnie
 105 Hamilton Health Care Center, Inc.; *\$16,501 for the mortgage
 106 payment for the Shenandoah Valley Medical Systems, Inc.;
 107 *\$13,751 for the mortgage payment for the Change, Inc.; and
 108 *\$8,849 for the mortgage payment for the Wirt County Health
 109 Services Association.

63 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,572,871
3	Current Expenses.	13000	12,463
4	Behavioral Health Program (R).	21900	75,181,543
5	Family Support Act.	22100	251,226
6	Institutional Facilities		
7	Operations (R).	33500	103,596,607
8	Substance Abuse Continuum		
9	of Care (R).	35400	5,000,000
10	Capital Outlay and		
11	Maintenance (R).	75500	950,000
12	Renaissance Program.	80400	165,996
13	BRIM Premium.	91300	<u>1,088,070</u>
14	Total.		\$ 187,818,776

15 Any unexpended balances remaining in the appropriations
 16 for Behavioral Health Program (fund 0525, appropriation
 17 21900), Institutional Facilities Operations (fund 0525,

18 appropriation 33500), Substance Abuse Continuum of Care
19 (fund 0525, appropriation 35400); Capital Outlay (fund 0525,
20 appropriation 51100), Behavioral Health Program – Surplus
21 (fund 0525, appropriation 63100), Institutional Facilities
22 Operations – Surplus (fund 0525, appropriation 63200), Capital
23 Outlay, Repairs and Equipment – Surplus (fund 0525,
24 appropriation 67700), Substance Abuse Continuum of Care –
25 Surplus (fund 0525, appropriation 72200), and Capital Outlay
26 and Maintenance (fund 0525, appropriation 75500) at the close
27 of the fiscal year 2014 are hereby reappropriated for expenditure
28 during the fiscal year 2015 with the exception of fund 0525,
29 fiscal year 2014, appropriation 35400 (\$1,240,000) which shall
30 expire on June 30, 2014.

31 Included in the above appropriation for Behavioral Health
32 Program (fund 0525, appropriation 21900) is \$100,000 for the
33 Healing Place of Huntington.

34 From the above appropriation for Institutional Facilities
35 Operations, together with available funds from the division of
36 health – hospital services revenue account (fund 5156,
37 appropriation 33500), on July 1, 2014, the sum of \$160,000 shall
38 be transferred to the department of agriculture – land division –
39 farm operating fund (1412) as advance payment for the purchase
40 of food products; actual payments for such purchases shall not
41 be required until such credits have been completely expended.

42 From the above appropriation for Substance Abuse
43 Continuum of Care (fund 0525, appropriation 35400), the
44 funding will be consistent with the goal areas outlined in the
45 Comprehensive Substance Abuse Strategic Action Plan.

46 Additional funds have been appropriated in fund 5156, fiscal
47 year 2015, organization 0506, and fund 5124, fiscal year 2015,
48 organization 0506, for the operation of the institutional facilities.
49 The secretary of the department of health and human resources

50 is authorized to utilize up to ten percent of the funds from the
51 Institutional Facilities Operations appropriation to facilitate cost
52 effective and cost saving services at the community level.

*64 - Division of Health –
West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2015 Org 0506

1	West Virginia Drinking Water		
2	Treatment		
3	Revolving Fund – Transfer. . . . 68900	\$	647,500

4 The above appropriation for Drinking Water Treatment
5 Revolving Fund – Transfer shall be transferred to the West
6 Virginia Drinking Water Treatment Revolving Fund or
7 appropriate bank depository and the Drinking Water Treatment
8 Revolving – Administrative Expense Fund as provided by
9 Chapter 16 of the Code.

65 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2015 Org 0510

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,013,643
3	Unclassified. 09900		4,024
4	Current Expenses. 13000		191,766
5	BRIM Premium. 91300		<u>9,311</u>
6	Total.	\$	1,218,744

66 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2015 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 41,689,341
3	Unclassified.	09900	5,688,944
4	Current Expenses.	13000	8,874,541
5	Child Care Development.	14400	11,225,922
6	Medical Services Contracts and		
7	Office of Managed Care.	18300	1,835,469
8	Medical Services.	18900	312,576,092
9	Social Services.	19500	135,345,202
10	Family Preservation Program.	19600	1,565,000
11	Family Resource Networks.	27400	*1,612,000
12	Domestic Violence Legal Services		
13	Fund.	38400	*370,000
14	James "Tiger" Morton Catastrophic		
15	Illness Fund.	45500	101,472
16	MR/DD Waiver.	46600	88,753,483
17	Child Protective Services		
18	Case Workers	46800	21,463,945
19	OSCAR and RAPIDS	51500	5,106,815
20	Title XIX Waiver for Seniors.	53300	13,593,620
21	WV Teaching Hospitals		
22	Tertiary/Safety Net.	54700	6,356,000
23	Specialized Foster Care.	56600	310,948
24	Child Welfare System	60300	1,255,502
25	In-Home Family Education.	68800	*750,000
26	WV Works Separate State		
27	Program.	69800	3,250,000
28	Child Support Enforcement.	70500	6,251,654
29	Medicaid Auditing.	70600	606,561
30	Temporary Assistance for		
31	Needy Families/		
32	Maintenance of Effort.	70700	22,969,096
33	Child Care Maintenance of		
34	Effort Match.	70800	5,693,743

35	Sexual Assault and Intervention and		
36	Prevention.	72300	125,000
37	Child and Family Services.	73600	2,850,000
38	Grants for Licensed Domestic		
39	Violence Programs and		
40	Statewide Prevention.	75000	*2,142,100
41	Capital Outlay and		
42	Maintenance (R).	75500	11,875
43	Medical Services Administrative		
44	Costs.	78900	35,624,432
45	Traumatic Brain Injury Waiver.	83500	800,000
46	Indigent Burials (R).	85100	2,050,000
47	BRIM Premium.	91300	834,187
48	Rural Hospitals Under 150 Beds.	94000	2,596,000
49	Children's Trust Fund – Transfer	95100	*220,000
50	Total.		\$ 745,367,308

51 Any unexpended balances remaining in the appropriations
52 for Capital Outlay and Maintenance (fund 0403, appropriation
53 75500) and Indigent Burials (fund 0403, appropriation 85100) at
54 the close of the fiscal year 2014 are hereby reappropriated for
55 expenditure during the fiscal year 2015.

56 Notwithstanding the provisions of Title I, section three of
57 this bill, the secretary of the department of health and human
58 resources shall have the authority to transfer funds within the
59 above account: *Provided*, That no more than five percent of the
60 funds appropriated to one appropriation may be transferred to
61 other appropriations: *Provided, however*, That no funds from

* **CLERK'S NOTE:** The Governor reduced the amount in the Item 66, line 11 from \$1,762,464 to \$1,612,000; line 13, from \$400,000 to \$370,000; line 25, from \$1,000,000 to \$750,000; line 39, from \$2,500,000 to \$2,142,100; and on line 48, from \$300,000 to \$220,000. The total does NOT reflect the reduction made by the Governor.

62 other appropriations shall be transferred to the personal services
63 and employee benefits appropriation.

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

67 Included in the above appropriation for Social Services (fund
68 0403, appropriation 19500) is funding for continuing education
69 requirements relating to the practice of social work.

70 The above appropriation for Domestic Violence Legal
71 Services Fund (fund 0403, appropriation 38400) shall be
72 transferred to the Domestic Violence Legal Services Fund (fund
73 5455).

74 The above appropriation for James "Tiger" Morton
75 Catastrophic Illness Fund (fund 0403, appropriation 45500) shall
76 be transferred to the James "Tiger" Morton Catastrophic Illness
77 Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the
78 Code.

79 The above appropriation for WV Works Separate State
80 Program (fund 0403, appropriation 69800), shall be transferred
81 to the WV Works Separate State College Program Fund (fund
82 5467), and the WV Works Separate State Two-Parent Program
83 Fund (fund 5468) as determined by the secretary of the
84 department of health and human resources.

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

90 From the above appropriation for the Grants for Licensed
91 Domestic Violence Programs and Statewide Prevention (fund

92 0403, appropriation 75000), 50% of the total shall be divided
 93 equally and distributed among the fourteen (14) licensed
 94 programs and the West Virginia Coalition Against Domestic
 95 Violence (WVCADV). The balance remaining in the
 96 appropriation for Grants for Licensed Domestic Violence
 97 Programs and Statewide Prevention (fund 0403, appropriation
 98 75000), shall be distributed according to the formula established
 99 by the Family Protection Services Board.

100 The above appropriation for Children's Trust Fund –
 101 Transfer (fund 0403, appropriation 95100) shall be transferred
 102 to the Children's Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS
 AND PUBLIC SAFETY**

*67 - Department of Military Affairs and Public Safety –
 Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2015 Org 0601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 708,026
3	Unclassified (R).	09900	19,401
4	Current Expenses.	13000	113,292
5	Repairs and Alterations.	06400	9,900
6	Equipment.	07000	3,300
7	Fusion Center (R).	46900	536,080
8	Other Assets.	69000	4,015
9	Directed Transfer.	70000	32,000
10	BRIM Premium.	91300	9,404
11	WV Fire and EMS Survivor		
12	Benefit (R).	93900	200,000
13	Homeland State Security		
14	Administrative Agency (R).	95300	<u>534,822</u>
15	Total.		\$ 2,170,240

16 Any unexpended balances remaining in the appropriations
 17 for Unclassified (fund 0430, appropriation 09900), Fusion
 18 Center (fund 0430, appropriation 46900), Substance Abuse
 19 Program – Surplus (fund 0430, appropriation 69600), Justice
 20 Reinvestment Training – Surplus (fund 0430, appropriation
 21 69900), WV Fire and EMS Survivor Benefit (fund 0430,
 22 appropriation 93900), and Homeland State Security
 23 Administrative Agency (fund 0430, appropriation 95300) at the
 24 close of the fiscal year 2014 are hereby reappropriated for
 25 expenditure during the fiscal year 2015.

26 The above appropriation for Directed Transfer (fund 0430,
 27 appropriation 70000) shall be transferred to the Law-
 28 Enforcement, Safety and Emergency Worker Funeral Expense
 29 Payment Fund (fund 6003).

*68 - Adjutant General –
 State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2015 Org 0603

1	Unclassified. 09900	\$ *15,524,044
2	College Education Fund. 23200	0
3	Mountaineer Challenge Academy. . 70900	0
4	Armory Board Transfer. 74600	0
5	Military Authority. 74800	0
6	Total.	\$ 16,710,103

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0433, appropriation 09900) and Armory
 9 Capital Improvements – Surplus (fund 0433, appropriation

* **CLERK’S NOTE:** The Governor reduced the amount in the Item 68, line 1 from \$16,710,103 to \$15,524,044. The total does NOT reflect the reduction made by the Governor.

10 32500) at the close of the fiscal year 2014 are hereby
 11 reappropriated for expenditure during the fiscal year 2015.

12 From the above appropriation for Unclassified (fund 0433,
 13 appropriation 09900) an amount not less than \$1,460,000 is for
 14 the Mountaineer ChalleNGe Academy.

15 From the above appropriations an amount approved by the
 16 adjutant general and the secretary of military affairs and public
 17 safety may be transferred to the State Armory Board for
 18 operation and maintenance of National Guard Armories.

*69 - Adjutant General –
 Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2015 Org 0603

1	Personal Services and Employee		
2	Benefits. 00100	\$	100,000
3	Current Expenses. 13000		<u>71,125</u>
4	Total.	\$	171,125

70 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2015 Org 0605

1	Personal Services and Employee		
2	Benefits. 00100	\$	382,566
3	Current Expenses. 13000		168,694
4	Salaries of Members of West Virginia		
5	Parole Board. 22700		602,419
6	BRIM Premium. 91300		<u>4,712</u>
7	Total.	\$	1,158,391

8 The above appropriation for Salaries of Members of West
 9 Virginia Parole Board (fund 0440, appropriation 22700) includes

10 funding for salary, annual increment (as provided for in W.Va.
11 Code §5-5-1), and related employee benefits of board members.

*71 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2015 Org 0606

1	Personal Services and Employee		
2	Benefits.	00100	\$ 546,349
3	Unclassified (R).	09900	29,453
4	Current Expenses.	13000	143,315
5	Repairs and Alterations.	06400	4,625
6	Radiological Emergency		
7	Preparedness.	55400	27,847
8	Federal Funds/Grant Match (R).	74900	660,124
9	Mine and Industrial Accident Rapid		
10	Response Call Center.	78100	482,949
11	Early Warning Flood System (R).	87700	507,224
12	BRIM Premium.	91300	18,811
13	WVU Charleston Poison Control		
14	Hotline.	94400	<u>700,804</u>
15	Total.		\$ 3,121,501

16 Any unexpended balances remaining in the appropriations
17 for Unclassified (fund 0443, appropriation 09900), Federal
18 Funds/Grant Match (fund 0443, appropriation 74900), Early
19 Warning Flood System (fund 0443, appropriation 87700), and
20 Disaster Mitigation (fund 0443, appropriation 95200) at the close
21 of the fiscal year 2014 are hereby reappropriated for expenditure
22 during the fiscal year 2015 with the exception of fund 0443,
23 fiscal year 2014, appropriation 74900 (\$240,000) which shall
24 expire on June 30, 2014.

*72 - Division of Corrections –
Central Office*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2015 Org 0608

1	Personal Services and Employee		
2	Benefits.	00100	\$ 612,463
3	Current Expenses.	13000	1,800
4	Total.....		\$ 614,263

*73 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2015 Org 0608

1	Employee Benefits.....	01000	\$ 1,258,136
2	Children’s Protection Act (R).	09000	938,437
3	Unclassified (R)	09900	1,842,160
4	Current Expenses (R).....	13000	31,000,000
5	Facilities Planning and		
6	Administration (R).....	38600	1,116,627
7	Charleston Work Release Center... .	45600	1,497,066
8	Beckley Correctional Center.	49000	1,769,197
9	Huntington Work Release Center. .	49500	966,776
10	Anthony Correctional Center	50400	5,055,992
11	Huttonsville Correctional Center . .	51400	22,101,659
12	Northern Correctional Center	53400	7,365,334
13	Inmate Medical Expenses (R).	53500	21,226,064
14	Pruntytown Correctional Center ...	54300	7,340,997
15	Corrections Academy.....	56900	*1,502,129
16	Martinsburg Correctional Center... .	66300	3,523,037
17	Parole Services.....	68600	5,002,855
18	Special Services	68700	4,897,709

* **CLERK’S NOTE:** The Governor reduced the amount in the Item 73, line 15 from \$1,602,129 to \$1,502,129. The total does NOT reflect the reduction made by the Governor.

132	APPROPRIATIONS	[Ch. 13
19	Investigative Services. 71600	157,098
20	Capital Outlay and	
21	Maintenance (R). 75500	2,000,000
22	Salem Correctional Center. 77400	12,502,189
23	McDowell County Correctional	
24	Center. 79000	1,949,983
25	Stevens Correctional Center 79100	6,474,500
26	Parkersburg Correctional Center. . . 82800	2,463,802
27	St. Mary's Correctional Center 88100	13,399,661
28	Denmar Correctional Center. 88200	4,697,378
29	Ohio County Correctional Center. . 88300	1,822,763
30	Mt. Olive Correctional Complex. . . 88800	20,735,525
31	Lakin Correctional Center. 89600	9,184,404
32	BRIM Premium. 91300	<u>829,190</u>
33	Total.	\$ 194,720,668

34 Any unexpended balances remaining in the appropriations
35 for Children's Protection Act (fund 0450, appropriation 09000),
36 Unclassified – Surplus (fund 0450, appropriation 09700), Inmate
37 Medical Expenses (fund 0450, appropriation 53500), Current
38 Expenses (fund 0450, appropriation 13000), Facilities Planning
39 and Administration (fund 0450, appropriation 38600), Payments
40 for Voluntary Inmate Placement – Surplus (fund 0450,
41 appropriation 59200), Capital Improvements – Surplus (fund
42 0450, appropriation 66100), Capital Outlay, Repairs and
43 Equipment – Surplus (fund 0450, appropriation 67700), and
44 Capital Outlay and Maintenance (fund 0450, appropriation
45 75500) at the close of the fiscal year 2014 are hereby
46 reappropriated for expenditure during the fiscal year 2015 with
47 the exception of fund 0450, fiscal year 2014, appropriation
48 09000 (\$120,000) and fund 0450, fiscal year 2014, appropriation
49 53500 (\$1,500,000) which shall expire on June 30, 2014.

50 The commissioner of corrections shall have the authority to
51 transfer between appropriations to the individual correctional
52 units above and may transfer funds from the individual

53 correctional units to Current Expenses (fund 0450, appropriation
54 13000) or Inmate Medical Expenses (fund 0450, appropriation
55 53500).

56 From the above appropriation to Unclassified, on July 1,
57 2014, the sum of \$300,000 shall be transferred to the department
58 of agriculture – land division – farm operating fund (1412) as
59 advance payment for the purchase of food products; actual
60 payments for such purchases shall not be required until such
61 credits have been completely expended.

62 From the above appropriation to Current Expenses (fund
63 0450, appropriation 13000) payment shall be made to house
64 Division of Corrections inmates in federal, county, and/or
65 regional jails.

66 Any realized savings from the Energy Savings Contract for
67 Mt. Olive Correctional Complex, Huttonsville Correction
68 Center, Pruntytown Correctional Center, or Denmar Correctional
69 Center may be transferred from the listed individual correctional
70 units to Facilities Planning and Administration (fund 0450,
71 appropriation 38600).

74 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2015 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ *58,568,052
3	Children’s Protection Act.	09000	*935,819
4	Current Expenses.	13000	*10,397,784
5	Repairs and Alterations.	06400	450,523
6	Vehicle Purchase.	45100	*1,500,000
7	Barracks Lease Payments.. . . .	55600	246,478
8	Communications and Other		
9	Equipment (R)..	55800	*1,268,968

134	APPROPRIATIONS	[Ch. 13
10	Trooper Retirement Fund..... 60500	*4,586,341
11	Handgun Administration Expense.. 74700	*80,420
12	Capital Outlay and	
13	Maintenance (R). 75500	*250,000
14	Retirement Systems – Unfunded	
15	Liability. 77500	20,860,000
16	Automated Fingerprint	
17	Identification System..... 89800	*671,994
18	BRIM Premium. 91300	<u>4,946,608</u>
19	Total.....	\$ 107,215,759

20 Any unexpended balances remaining in the appropriations
21 for Communications and Other Equipment (fund 0453,
22 appropriation 55800), Capital Outlay, Repairs and Equipment –
23 Surplus (fund 0453, appropriation 67700), and Capital Outlay
24 and Maintenance (fund 0453, appropriation 75500) at the close
25 of the fiscal year 2014 are hereby reappropriated for expenditure
26 during the fiscal year 2015 with the exception of fund 0453,
27 fiscal year 2014, appropriation 55800 (\$440,000) and fund 0453,
28 fiscal year 2014, appropriation 75500 (\$130,000) which shall
29 expire on June 30, 2014.

30 From the above appropriation for Personal Services and
31 Employee Benefits (fund 0453, appropriation 00100), an amount
32 not less than \$25,000 shall be expended to offset the costs
33 associated with providing police services for the West Virginia
34 State Fair.

75 - Fire Commission

* **CLERK'S NOTE:** The Governor reduced the amount in the Item 74, line 2 from \$59,075,965 to \$58,568,052; line 3, from \$947,942 to \$935,819; line 4, from \$11,219,232 to \$10,397,784; line 6, from \$2,403,790 to \$1,500,000; line 9, from \$1,338,968 to \$1,268,968; line 10, from \$4,625,240 to \$4,586,341; line 11, from \$81,668 to \$80,420; line 13, from \$314,425 to \$250,000; and line 17, from \$704,920 to \$671,994. The total does NOT reflect the reduction made by the Governor.

(WV Code Chapter 29)

Fund 0436 FY 2015 Org 0619

1 Current Expenses..... 13000 \$ 69,439

76 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2015 Org 0620

1	Personal Services and Employee		
2	Benefits. 00100	\$	546,686
3	Current Expenses. 13000		132,696
4	Repairs and Alterations. 06400		1,804
5	Child Advocacy Centers (R). 45800		*1,502,466
6	Community Corrections (R). 56100		7,727,400
7	Statistical Analysis Program. 59700		46,774
8	Sexual Assault Forensic Examination		
9	Commission..... 71400		*100,000
10	Law Enforcement Professional		
11	Standards..... 3800		158,991
12	BRIM Premium. 91300		<u>1,421</u>
13	Total.....	\$	10,468,238

14 Any unexpended balances remaining in the appropriations
 15 for Buildings (fund 0546, appropriation 25800), Child Advocacy
 16 Centers (fund 0546, appropriation 45800), and Community
 17 Corrections (fund 0546, appropriation 56100) at the close of the
 18 fiscal year 2014 are hereby reappropriated for expenditure
 19 during the fiscal year 2015 with the exception of fund 0546,
 20 fiscal year 2014, appropriation 45800 (\$7,000) and fund 0546,

* **CLERK'S NOTE:** The Governor reduced the amount in the Item 76, line 5, from \$1,702,466 to \$1,502,466; and line 9, from \$150,000 to \$100,000. The total does NOT reflect the reduction made by the Governor.

21 fiscal year 2014, appropriation 56100 (\$5,000) which shall
22 expire on June 30, 2014.

23 From the above appropriation for Child Advocacy Centers
24 (fund 0546, appropriation 45800), the division may retain an
25 amount not to exceed four percent of the appropriation for
26 administrative purposes.

77 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2015 Org 0621

1	Jones Building Treatment Center..	26100	\$	1,845,902
2	Statewide Reporting Centers.	26200		4,374,172
3	Robert L. Shell Juvenile Center.	26700		1,990,132
4	Central Office	70100		2,186,103
5	Capital Outlay and			
6	Maintenance (R).	75500		250,000
7	Gene Spadaro Juvenile Center	79300		2,099,223
8	BRIM Premium.	91300		96,187
9	Kenneth Honey Rubenstein			
10	Juvenile Center (R)	98000		5,198,175
11	Vicki Douglas Juvenile Center.	98100		1,866,838
12	Northern Regional Juvenile			
13	Center.	98200		1,376,302
14	Lorrie Yeager Jr. Juvenile Center.	98300		1,962,459
15	Sam Perdue Juvenile Center	98400		1,970,400
16	Tiger Morton Center	98500		2,108,675
17	Donald R. Kuhn Juvenile Center	98600		4,171,337
18	J.M. "Chick" Buckbee Juvenile			
19	Center	98700		<u>2,018,106</u>
20	Total.		\$	33,514,011

21 Any unexpended balances remaining in the appropriations
22 for Capital Outlay and Maintenance (fund 0570, appropriation

23 75500) and Kenneth Honey Rubenstein Juvenile Center (fund
 24 0570, appropriation 98000) at the close of the fiscal year 2014
 25 are hereby reappropriated for expenditure during the fiscal year
 26 2015.

27 From the above appropriations, on July 1, 2014, the sum of
 28 \$50,000 shall be transferred to the department of agriculture –
 29 land division – farm operating fund (1412) as advance payment
 30 for the purchase of food products; actual payments for such
 31 purchases shall not be required until such credits have been
 32 completely expended.

33 The director of juvenile services shall have the authority to
 34 transfer between appropriations to the individual juvenile centers
 35 above.

78 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2015 Org 0622

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,034,137
3	Unclassified (R).	09900	23,007
4	Current Expenses.	13000	108,216
5	Repairs and Alterations.	06400	8,500
6	Equipment (R).	07000	75,000
7	Other Assets.	69000	72,825
8	BRIM Premium.	91300	<u>9,969</u>
9	Total.		\$ 2,331,654

10 Any unexpended balances remaining in the appropriations
 11 for Equipment (fund 0585, appropriation 07000), and
 12 Unclassified (fund 0585, appropriation 09900) at the close of the
 13 fiscal year 2014 are hereby reappropriated for expenditure
 14 during the fiscal year 2015.

DEPARTMENT OF REVENUE*79 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2015 Org 0701

1	Personal Services and Employee		
2	Benefits. 00100	\$	576,563
3	Unclassified. 09900		6,851
4	Current Expenses. 13000		92,000
5	Repairs and Alterations. 06400		1,262
6	Equipment. 07000		8,000
7	Other Assets. 69000		<u>500</u>
8	Total.	\$	685,176
9	Any unexpended balance remaining in the appropriation for		
10	Unclassified – Total (fund 0465, appropriation 09600) at the		
11	close of the fiscal year 2014 is hereby reappropriated for		
12	expenditure during the fiscal year 2015.		

80 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2015 Org 0702

1	Personal Services and Employee		
2	Benefits (R). 00100	\$	17,286,138
3	Unclassified (R). 09900		236,680
4	Current Expenses (R). 13000		6,273,333
5	Repairs and Alterations. 06400		10,000
6	Equipment. 07000		50,000
7	Multi State Tax Commission. 65300		77,958
8	Other Assets. 69000		10,000
9	BRIM Premium. 91300		<u>13,000</u>
10	Total.	\$	23,957,109

11 Any unexpended balances remaining in the appropriations
 12 for Personal Services and Employee Benefits (fund 0470,
 13 appropriation 00100), Employee Benefits (fund 0470,
 14 appropriation 01000), Unclassified (fund 0470, appropriation
 15 09900), Current Expenses (fund 0470, appropriation 13000), and
 16 GIS Development Project (fund 0470, appropriation 56200) at
 17 the close of the fiscal year 2014 are hereby reappropriated for
 18 expenditure during the fiscal year 2015 with the exception of
 19 fund 0470, fiscal year 2014, appropriation 00100 (\$1,500,000)
 20 and fund 0470, fiscal year 2014, appropriation 01000 (\$150,000)
 21 and fund 0470, fiscal year 2014, appropriation 56200 (\$150,000)
 22 which shall expire on June 30, 2014.

81 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2015 Org 0703

1	Personal Services and Employee		
2	Benefits.	00100	\$ 688,096
3	Unclassified (R).	09900	7,443
4	Current Expenses.	13000	53,771
5	BRIM Premium.	91300	<u>2,806</u>
6	Total.		\$ 752,116

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0595, appropriation 09900) at the close of the
 9 fiscal year 2014 is hereby reappropriated for expenditure during
 10 the fiscal year 2015.

82 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2015 Org 0709

1	Personal Services and Employee		
2	Benefits.	00100	\$ 470,109

140	APPROPRIATIONS	[Ch. 13
3	Current Expenses..... 13000	100,299
4	Unclassified (R)..... 09900	5,797
5	Other Assets..... 69000	903
6	BRIM Premium..... 91300	<u>2,618</u>
7	Total.....	\$ 579,726

8 Any unexpended balance remaining in the appropriation for
9 Unclassified (fund 0593, appropriation 09900) at the close of the
10 fiscal year 2014 is hereby reappropriated for expenditure during
11 the fiscal year 2015.

*83 - Division of Professional and Occupational Licenses –
State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2015 Org 0933

1	Personal Services and Employee		
2	Benefits..... 00100	\$	19,573
3	Current Expenses..... 13000		<u>28,385</u>
4	Total.....	\$	47,958

DEPARTMENT OF TRANSPORTATION

84 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2014 Org 0804

1	Personal Services and Employee		
2	Benefits..... 00100	\$	353,303
3	Current Expenses..... 13000		331,569
4	Other Assets (R)..... 69000		1,353,906
5	BRIM Premium..... 91300		<u>173,695</u>
6	Total.....	\$	2,212,473

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0506, appropriation 09900) and Other
 9 Assets (fund 0506, appropriation 69000) at the close of the fiscal
 10 year 2014 are hereby reappropriated for expenditure during the
 11 fiscal year 2015 with the exception of fund 0506, fiscal year
 12 2014, appropriation 69000 (\$60,000) which shall expire on June
 13 30, 2014.

85 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2015 Org 0805

1	Equipment.	07000	\$	511,049
2	Current Expenses (R)...	13000		1,744,949
3	Buildings (R).	25800		120,281
4	Other Assets.	69000		<u>100,000</u>
5	Total.		\$	2,476,279

6 Any unexpended balances remaining in the appropriations
 7 for Unclassified – Total (fund 0510, appropriation 09600),
 8 Current Expenses (fund 0510, appropriation 13000), Equipment
 9 (fund 0510, appropriation 07000), Buildings (fund 0510,
 10 appropriation 25800) and Other Assets (fund 0510, appropriation
 11 69000) at the close of the fiscal year 2014 are hereby
 12 reappropriated for expenditure during the fiscal year 2015.

86 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2015 Org 0806

1	Personal Services and Employee			
2	Benefits.	00100	\$	276,931
3	Current Expenses.	13000		73,539

142

APPROPRIATIONS

[Ch. 13

4	Repairs and Alterations.	06400		500
5	BRIM Premium.	91300		<u>2,500</u>
6	Total.		\$	353,470

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0581, appropriation 09900) at the close of the
 9 fiscal year 2014 is hereby reappropriated for expenditure during
 10 the fiscal year 2015.

87 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2015 Org 0807

1	Personal Services and Employee			
2	Benefits.	00100	\$	213,531
3	Current Expenses (R).	13000		807,704
4	Repairs and Alterations.	06400		100
5	Civil Air Patrol.	23400		155,095
6	BRIM Premium.	91300		<u>3,045</u>
7	Total.		\$	1,179,475

8 Any unexpended balance remaining in the appropriations for
 9 Unclassified (fund 0582, appropriation 09900) and Current
 10 Expenses (fund 0582, appropriation 13000) at the close of the
 11 fiscal year 2014 are hereby reappropriated for expenditure
 12 during the fiscal year 2015.

13 From the above appropriation for Current Expenses (fund
 14 0582, appropriation 13000), the sum of \$120,000 shall be
 15 distributed equally to each of the twelve local Civil Air Patrol
 16 Squadrons.

DEPARTMENT OF VETERANS' ASSISTANCE

88 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2015 Org 0613

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,915,352
3	Unclassified.	09900	20,000
4	Current Expenses.	13000	325,507
5	Repairs and Alterations.	06400	5,000
6	Veterans' Field Offices.	22800	268,345
7	Veterans' Nursing Home (R).	28600	6,465,358
8	Veterans' Toll Free Assistance		
9	Line.	32800	2,015
10	Veterans' Reeducation		
11	Assistance (R).	32900	29,502
12	Veterans' Grant Program (R).	34200	50,000
13	Veterans' Grave Markers.	47300	2,754
14	Veterans' Transportation.	48500	625,000
15	Veterans Outreach Programs.	61700	208,580
16	Memorial Day Patriotic Exercise.	69700	20,000
17	Veterans Cemetery.	80800	378,170
18	BRIM Premium.	91300	<u>23,860</u>
19	Total.		\$ 10,339,443

20 Any unexpended balances remaining in the appropriations
21 for Veterans' Nursing Home (fund 0456, appropriation 28600),
22 Veterans' Reeducation Assistance (fund 0456, appropriation
23 32900), Veterans' Grant Program (fund 0456, appropriation
24 34200), Veterans' Bonus – Surplus (fund 0456, appropriation
25 34400), Veterans' Bonus (fund 0456, appropriation 48300), and
26 Educational Opportunities for Children of Deceased Veterans
27 (fund 0456, appropriation 85400) at the close of the fiscal year
28 2014 are hereby reappropriated for expenditure during the fiscal
29 year 2015 with the exception of fund 0456, fiscal year 2014,
30 appropriation 28600 (\$600,000) which shall expire on June 30,
31 2014.

*89 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2015 Org 0618

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,123,404
3	Current Expenses. 13000		69,000
4	Total.	\$	1,192,404

BUREAU OF SENIOR SERVICES

90 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2015 Org 0508

1	Transfer to Division of Human		
2	Services for Health Care		
3	and Title XIX Waiver for		
4	Senior Citizens. 53900	\$	*15,957,690

5 The above appropriation for Transfer to Division of Human
6 Services for Health Care and Title XIX Waiver for Senior
7 Citizens (fund 0420, appropriation 53900) along with the federal
8 moneys generated thereby shall be used for reimbursement for
9 services provided under the program.

10 The above appropriation is in addition to funding provided
11 in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY

* **CLERK'S NOTE:** The Governor reduced the amount in the Item 90, line 4 from \$19,457,690 to \$15,957,690. The total does NOT reflect the reduction made by the Governor.

AND TECHNICAL COLLEGE EDUCATION

*91 - West Virginia Council for
Community and Technical College Education –
Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2015 Org 0420

1	West Virginia Council for Community		
2	and Technical Education (R)... 39200	\$	773,248
3	Transit Training Partnership. 78300		71,225
4	Community College Workforce		
5	Development (R)..... 87800		817,618
6	College Transition Program..... 88700		296,920
7	West Virginia Advance Workforce		
8	Development (R)..... 89300		*3,445,095
9	Technical Program		
10	Development (R)..... 89400		<u>2,013,086</u>
11	Total.....	\$	<u>7,617,192</u>

12 Any unexpended balances remaining in the appropriations
 13 for Unclassified – Surplus (fund 0596, appropriation 09700),
 14 West Virginia Council for Community and Technical Education
 15 (fund 0596, appropriation 39200), Capital Improvements –
 16 Surplus (fund 0596, appropriation 66100), Community College
 17 Workforce Development (fund 0596, appropriation 87800), West
 18 Virginia Advance Workforce Development (fund 0596,
 19 appropriation 89300), and Technical Program Development
 20 (fund 0596, appropriation 89400) at the close of the fiscal year
 21 2014 are hereby reappropriated for expenditure during the fiscal
 22 year 2015 with the exception of fund 0596, fiscal year 2014,

* **CLERK’S NOTE:** The Governor reduced the amount in the Item 91, line 8, from \$3,645,095 to \$3,445,095; and line 34, from \$400,000 to \$200,000. The total does NOT reflect the reduction made by the Governor.

23 appropriation 39200 (\$7,795), fund 0596, fiscal year 2014,
 24 appropriation 87800 (\$8,286), fund 0596, fiscal year 2014,
 25 appropriation 89300 (\$32,892) and fund 0596, fiscal year 2014,
 26 appropriation 89400 (\$20,409) which shall expire on June 30,
 27 2014.

28 From the above appropriation for the Community College
 29 Workforce Development (fund 0596, appropriation 87800),
 30 \$200,000 shall be expended on the Mine Training Program in
 31 Southern West Virginia.

32 Included in the above appropriation for West Virginia
 33 Advance Workforce Development (fund 0596, appropriation
 34 89300) is an additional *\$200,000 to be used exclusively for
 35 advanced manufacturing and energy industry specific training
 36 programs.

92 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2015 Org 0444

1	Mountwest Community and		
2	Technical College.	48700	\$ 5,731,087

93 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2015 Org 0445

1	New River Community and		
2	Technical College.	35800	\$ 5,681,907

94 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2015 Org 0446

1	Pierpont Community and		
2	Technical College.	93000	\$ 7,584,426

95 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2015 Org 0447

1	Blue Ridge Community and		
2	Technical College.	88500	\$ 4,640,378

96 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2015 Org 0464

1	West Virginia University –		
2	Parkersburg.	47100	\$ *9,858,752

97 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2015 Org 0487

1	Southern West Virginia Community and		
2	Technical College.	44600	\$ 8,321,687

98 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2015 Org 0489

* **CLERKS NOTE:** The Governor reduced the amount in the Item 96, line 2 from \$10,081,330 to \$9,858,752. The total does NOT reflect the reduction made by the Governor.

148 APPROPRIATIONS [Ch. 13

1 West Virginia Northern Community and
2 Technical College. 44700 \$ 7,125,451

99 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2015 Org 0492

1 Eastern West Virginia Community and
2 Technical College. 41200 \$ 1,895,244

100 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2015 Org 0493

1 BridgeValley Community and
2 Technical College. 71700 \$ 7,774,924

HIGHER EDUCATION POLICY COMMISSION

*101 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2015 Org 0441

1 Personal Services and Employee
2 Benefits. 00100 \$ 2,553,040
3 Current Expenses. 13000 175,529
4 Higher Education Grant Program. . 16400 39,019,864
5 Tuition Contract Program (R). . . . 16500 1,267,399
6 Underwood-Smith Scholarship
7 Program-Student Awards. . . . 16700 192,500

8	Facilities Planning and		
9	Administration (R).....	38600	1,925,000
10	PROMISE Scholarship – Transfer..	80000	18,500,000
11	HEAPS Grant Program (R)....	86700	5,006,535
12	BRIM Premium.....	91300	<u>16,597</u>
13	Total.....		\$ 68,656,464

14 Any unexpended balances remaining in the appropriations
 15 for Unclassified – Surplus (fund 0589, appropriation 09700),
 16 Tuition Contract Program (fund 0589, appropriation 16500),
 17 Facilities Planning and Administration (fund 0589, appropriation
 18 38600), Capital Improvements – Surplus (fund 0589,
 19 appropriation 66100), Capital Outlay and Maintenance (fund
 20 0589, appropriation 75500), and HEAPS Grant Program (fund
 21 0589, appropriation 86700) at the close of the fiscal year 2014
 22 are hereby reappropriated for expenditure during the fiscal year
 23 2015.

24 The above appropriation for Facilities Planning and
 25 Administration (fund 0589, appropriation 38600) is for
 26 operational expenses of the West Virginia Education, Research
 27 and Technology Park between construction and full occupancy.

28 The above appropriation for Higher Education Grant
 29 Program (fund 0589, appropriation 16400) shall be transferred
 30 to the Higher Education Grant Fund (fund 4933, org 0441)
 31 established by W.Va. Code §18C-5-3.

32 The above appropriation for Underwood-Smith Scholarship
 33 Program-Student Awards (fund 0589, appropriation 16700) shall
 34 be transferred to the Underwood-Smith Teacher Scholarship and
 35 Loan Assistance Fund (fund 4922, org 0441) established by
 36 W.Va. Code §18C-4-1.

37 The above appropriation for PROMISE Scholarship –
 38 Transfer (fund 0589, appropriation 80000) shall be transferred

39 to the PROMISE Scholarship Fund (fund 4296, org 0441)
 40 established by W.Va. Code §18C-7-7.

*102 - Higher Education Policy Commission –
 Administration –*

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B)

Fund 0551 FY 2015 Org 0495

1	WVNET.....	16900	\$	1,720,914
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*103 - West Virginia University –
 School of Medicine
 Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2015 Org 0463

1	WVU School of Health Science –			
2	Eastern Division.	05600	\$	2,337,058
3	WVU – School of Health Sciences.	17400		17,447,465
4	WVU – School of Health Sciences –			
5	Charleston Division.....	17500		2,412,341
6	Rural Health Outreach			
7	Programs (R).....	37700		178,242
8	West Virginia University School of			
9	Medicine BRIM Subsidy.....	46000		<u>1,227,032</u>
10	Total.....		\$	23,602,138

11 Any unexpended balance remaining in the appropriations for
 12 Rural Health Outreach Programs (fund 0343, appropriation
 13 37700), WVU School of Health Sciences – Surplus (fund 0343,
 14 appropriation 71300), and Educational Enhancements – Surplus
 15 (fund 0343, appropriation 92700) at the close of the fiscal year

16 2014 are hereby reappropriated for expenditure during the fiscal
17 year 2015.

18 Included in the appropriation for WVU – School of Health
19 Sciences (fund 0343, appropriation 17400) is \$1,000,000 for
20 Blanchette Rockefeller Project; \$1,000,000 for the School of
21 Public Health (year 4 of 5); and \$943,080 is for Graduate
22 Medical Education which may be transferred to the Department
23 of Health and Human Resources’ Medical Service Fund (fund
24 5084) for the purpose of matching federal or other funds to be
25 used in support of graduate medical education, subject to
26 approval of the vice-chancellor for health sciences and the
27 secretary of the department of health and human resources. If
28 approval is denied, the funds may be utilized by the respective
29 institutions for expenditure on graduate medical education.

30 Included in the above appropriation for WVU – School of
31 Health Sciences – Charleston Division (fund 0343, appropriation
32 17500), an amount not less than \$5,000, is to be used for the
33 West Virginia Academy of Family Physicians Doc of the Day
34 Program.

35 The above appropriation for Rural Health Outreach
36 Programs (fund 0343, appropriation 37700) includes rural health
37 activities and programs; rural residency development and
38 education; and rural outreach activities.

39 The above appropriation for BRIM subsidy (fund 0343,
40 appropriation 46000) shall be paid to the Board of Risk and
41 Insurance Management as a general revenue subsidy against the
42 “Total Premium Billed” to the institution as part of the full cost
43 of their malpractice insurance coverage.

*104 - West Virginia University –
General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2015 Org 0463

1	West Virginia University.....	45900	\$*102,999,869
2	Jackson's Mill (R).	46100	308,886
3	West Virginia University Institute for		
4	Technology.	47900	8,400,448
5	State Priorities – Brownfield		
6	Professional Development (R). 53100		353,287
7	West Virginia University –		
8	Potomac State.	99400	<u>4,177,993</u>
9	Total.....		\$ 116,340,483

10 Any unexpended balances remaining in the appropriations
11 for Jackson's Mill (fund 0344, appropriation 46100), and State
12 Priorities – Brownfield Professional Development (fund 0344,
13 appropriation 53100) at the close of the fiscal year 2014 are
14 hereby reappropriated for expenditure during the fiscal year
15 2015 with the exception of fund 0344, fiscal year 2014,
16 appropriation 53100 (\$4,003) which shall expire on June 30,
17 2014.

18 Included in the above appropriation for West Virginia
19 University (fund 0344, appropriation 45900) is \$34,500 for the
20 Marshall and WVU Faculty and Course Development
21 International Study Project; *\$446,429 for the WVU Law School
22 – Skills Program; \$300,000 for the WVU Coal and Energy
23 Research Bureau to be expended in consultation with the Board
24 of Coal Mine Health and Safety, the Mine Safety Technology
25 Task Force, and the DEP Advisory Council; \$19,714 for the
26 WVU College of Engineering and Mineral Resources – Diesel
27 Training – Transfer; \$500,000 for the Mining Engineering

* **CLERKS NOTE:** The Governor reduced the amount in the Item 104, line 1, from \$103,099,869 to \$102,999,869; and line 21, from \$546,429 to \$446,429. The total does NOT reflect the reduction made by the Governor.

28 Program; \$220,000 for the WVU Petroleum Engineering
29 Program; \$82,500 for the WVU – Sheep Study; \$630,000 for the
30 Davis College of Forestry Agriculture ad Consumer Sciences of
31 which \$80,000 is for a Landscape Architect, \$112,500 is to be
32 used for Morgantown Farms, \$112,500 is to be used for repairs
33 at the Raymond Memorial Farm, \$112,500 is to be used for
34 Reedsville Farm, and \$112,500 is to be used for Kerneysville
35 Farm; \$200,000 for Reedsville Arena and Jackson’s Mill Arena;
36 \$100,000 for the WVU – Soil Testing Program; \$100,000 for a
37 veterinarian; \$50,000 for the WVU Cancer Study; \$500,000 for
38 the Center for Multiple Sclerosis Program; \$150,000 for the WV
39 Alzheimer Disease Register; \$100,000 for the rifle team; ***
40
41 *** and \$30,000 for
42 the West Virginia University Extension Service to develop a
43 cyber-bullying prevention program.

44 Included in the above appropriation for Jackson’s Mill (fund
45 0344, appropriation 46100) is \$150,000 for the Jackson’s Mill
46 Fire Academy.

47 From the above appropriation for West Virginia University
48 – Potomac State (fund 0344, appropriation 99400) is \$50,000 for
49 maintenance, repairs, and equipment; \$75,000 for Potomac State
50 Farms for maintenance, repairs, and equipment; and \$82,500 for
51 the Potomac State Equine Program.

*105 - Marshall University –
School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2015 Org 0471

* CLERK’S NOTE: The Governor deleted language on lines 39 through 41.

1	Marshall Medical School.....	17300	\$	13,416,420
2	Rural Health Outreach			
3	Programs (R).....	37700		177,106
4	Marshall University Medical School			
5	BRIM Subsidy.....	44900		<u>889,979</u>
6	Total.....		\$	14,483,505

7 Any unexpended balance remaining in the appropriation for
8 Rural Health Outreach Program (fund 0347, appropriation
9 37700) at the close of the fiscal year 2014 is hereby
10 reappropriated for expenditure during the fiscal year 2015.

11 Included in the above appropriation for Marshall Medical
12 School (fund 0347, appropriation 17300), an amount not less
13 than \$5,000 is to be used for the West Virginia Academy of
14 Family Physicians Doc of the Day Program; \$417,351 is for the
15 Marshall University Forensic Lab; \$275,061 is for the Marshall
16 University Center for Rural Health; and \$295,477 is for Graduate
17 Medical Education which may be transferred to the Department
18 of Health and Human Resources' Medical Service Fund (fund
19 5084) for the purpose of matching federal or other funds to be
20 used in support of graduate medical education, subject to
21 approval of the vice-chancellor for health sciences and the
22 secretary of the department of health and human resources. If
23 approval is denied, the funds may be utilized by the institution
24 for expenditure on graduate medical education.

25 The above appropriation for Rural Health Outreach
26 Programs (fund 0347, appropriation 37700) includes rural health
27 activities and programs; rural residency development and
28 education; and rural outreach activities.

29 The above appropriation for BRIM subsidy (fund 0347,
30 appropriation 44900) shall be paid to the Board of Risk and
31 Insurance Management as a general revenue subsidy against the

32 "Total Premium Billed" to the institution as part of the full cost
33 of their malpractice insurance coverage.

*106 - Marshall University –
General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2015 Org 0471

1	Marshall University.	44800	\$	48,150,638
2	Vista E-Learning (R).	51900		262,928
3	State Priorities – Brownfield Professional			
4	Development (R).	53100		353,287
5	WV Autism Training Center (R). . .	93200		<u>1,873,340</u>
6	Total.		\$	50,640,193

7 Any unexpended balances remaining in the appropriations
8 for Vista E-Learning (fund 0348, appropriation 51900), State
9 Priorities – Brownfield Professional Development (fund 0348,
10 appropriation 53100), and WV Autism Training Center (fund
11 0348, appropriation 93200) at the close of fiscal year 2014 are
12 hereby reappropriated for expenditure during the fiscal year
13 2015 with the exception of fund 0348, fiscal year 2014,
14 appropriation 93200 (\$20,968) which shall expire on June 30,
15 2014.

16 Included in the above appropriation for Marshall University
17 (fund 0348, appropriation 44800) is \$181,280 for the Marshall
18 University – Southern WV CTC 2+2 Program and \$175,000 for
19 the Luke Lee Listening Language & Learning Lab.

107 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2015 Org 0476

APPROPRIATIONS

1	West Virginia School of		
2	Osteopathic Medicine.	17200	\$ 7,058,218
3	Rural Health Outreach		
4	Programs (R).	37700	177,884
5	West Virginia School of		
6	Osteopathic Medicine		
7	BRIM Subsidy.	40300	152,915
8	Rural Health Initiative – Medical		
9	Schools Support.	58100	<u>424,662</u>
10	Total.		\$ 7,813,679

11 Any unexpended balance remaining in the appropriation for
12 Rural Health Outreach Programs (fund 0336, appropriation
13 37700) at the close of fiscal year 2014 is hereby reappropriated
14 for expenditure during the fiscal year 2015.

15 The above appropriation for Rural Health Outreach
16 Programs (fund 0336, appropriation 37700) includes rural health
17 activities and programs; rural residency development and
18 education; and rural outreach activities.

19 The above appropriation for BRIM subsidy (fund 0336,
20 appropriation 40300) shall be paid to the Board of Risk and
21 Insurance Management as a general revenue subsidy against the
22 “Total Premium Billed” to the institution as part of the full cost
23 of their malpractice insurance coverage.

108 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2015 Org 0482

1	Bluefield State College.	40800	\$ 5,856,558
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109 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2015 Org 0483

1 Concord University. 41000 \$ 9,040,548

2 Included in the above appropriation for Concord University
3 (appropriation 41000) is \$100,000 for the Geographic Alliance.

110 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2015 Org 0484

1 Fairmont State University. 41400 \$ 15,842,394

111 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2015 Org 0485

1 Glenville State College. 42800 \$ 6,318,177

2 Included in the above appropriation for Glenville State
3 College (fund 0363, appropriation 42800) is \$300,000 for a 20
4 county "Hidden Promise" consortium between the County
5 School Systems and Glenville State College; and \$200,000 for
6 courses offered in conjunction with the corrections academy.

112 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2015 Org 0486

1 Shepherd University. 43200 \$ 9,941,104

2 Included in the above appropriation for Shepherd University
3 (fund 0366, appropriation 43200) is \$100,000 for the Gateway
4 Program.

113 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2015 Org 0488

1	West Liberty University.....	43900	\$	8,255,151
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114 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2015 Org 0490

1	West Virginia State University.	44100	\$	10,380,591
2	West Virginia State University Land			
3	Grant Match.....	95600		<u>1,673,390</u>
4	Total.....		\$	12,053,981
5	Total TITLE II, Section 1 —			
6	General Revenue			
7	(Including claims against			
8	the state).....		\$	<u>4,253,951,000</u>

9 **Sec. 2. Appropriations from state road fund.** — From the
10 state road fund there are hereby appropriated conditionally upon
11 the fulfillment of the provisions set forth in Article 2, Chapter
12 11B of the Code the following amounts, as itemized, for
13 expenditure during the fiscal year 2015.

DEPARTMENT OF TRANSPORTATION*115 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2015 Org 0802**State**

		Appropriation	Road Fund
1	Personal Services and Employee		
2	Benefits.	00100	\$ 23,278,949
3	Current Expenses.	13000	16,212,293
4	Repairs and Alterations.	06400	144,000
5	Equipment.	07000	80,000
6	Buildings.	25800	10,000
7	Other Assets.	69000	1,600,000
8	BRIM Premium.	91300	<u>53,487</u>
9	Total.		\$ 41,378,729

116 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2015 Org 0803

1	Debt Service.	04000	\$ 37,000,000
2	Maintenance.	23700	354,846,000
3	Maintenance, Contract Paving and		
4	Secondary Road Maintenance. .	27200	84,388,245
5	Bridge Repair and Replacement. . .	27300	37,000,000
6	Inventory Revolving.	27500	4,000,000
7	Equipment Revolving.	27600	15,000,000
8	General Operations.	27700	51,481,000
9	Interstate Construction.	27800	120,000,000
10	Other Federal Aid Programs.	27900	325,000,000
11	Appalachian Programs.	28000	80,000,000
12	Nonfederal Aid Construction.	28100	17,000,000
13	Highway Litter Control.	28200	1,734,000
14	Federal Economic Stimulus.	89100	<u>1,000,000</u>
15	Total.		\$ 1,128,449,245

16 The above appropriations are to be expended in accordance
17 with the provisions of Chapters 17 and 17C of the code.

18 The commissioner of highways shall have the authority to
19 operate revolving funds within the state road fund for the
20 operation and purchase of various types of equipment used
21 directly and indirectly in the construction and maintenance of
22 roads and for the purchase of inventories and materials and
23 supplies.

24 There is hereby appropriated in addition to the above
25 appropriations, sufficient money for the payment of claims,
26 accrued or arising during this budgetary period, to be paid in
27 accordance with Sections 17 and 18, Article 2, Chapter 14 of the
28 code.

29 It is the intent of the Legislature to capture and match all
30 federal funds available for expenditure on the Appalachian
31 highway system at the earliest possible time. Therefore, should
32 amounts in excess of those appropriated be required for the
33 purposes of Appalachian programs, funds in excess of the
34 amount appropriated may be made available upon
35 recommendation of the commissioner and approval of the
36 Governor. Further, for the purpose of Appalachian programs,
37 funds appropriated by appropriation may be transferred to other
38 appropriations upon recommendation of the commissioner and
39 approval of the Governor.

117 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2015 Org 0808

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,585,201

Ch. 13]	APPROPRIATIONS	161
3	Current Expenses. 13000	341,278
4	Repairs and Alterations. 06400	10,000
5	Equipment. 07000	5,500
6	BRIM Premium. 91300	<u>10,000</u>
7	Total.	\$ 1,951,979
8	Total TITLE II, Section 2 —	
9	State Road Fund	
10	(Including claims against the state)...	<u>\$ 1,172,391,708</u>

1 **Sec. 3. Appropriations from other funds.** — From the
2 funds designated there are hereby appropriated conditionally
3 upon the fulfillment of the provisions set forth in Article 2,
4 Chapter 11B of the Code the following amounts, as itemized, for
5 expenditure during the fiscal year 2015.

LEGISLATIVE

118 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2015 Org 2300

	Appro- prium	Other Funds
1	Personal Services and Employee	
2	Benefits. 00100	\$ 498,020
3	Current Expenses. 13000	133,903
4	Repairs and Alterations. 06400	1,000
5	Economic Loss Claim Payment	
6	Fund. 33400	3,460,125
7	Other Assets. 69000	<u>3,700</u>
8	Total.	\$ 4,096,748

JUDICIAL

119 - Supreme Court —

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2015 Org 2400

1	Current Expenses.	13000		\$	1,200,000
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EXECUTIVE

120 - Governor's Office

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2015 Org 0100

1	Personal Services and Employee				
2	Benefits.	00100		\$	172,800
3	Current Expenses.	13000			<u>512,126</u>
4	Total.			\$	684,926

121 - Auditor's Office –

Land Operating Fund

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2015 Org 1200

1	Personal Services and Employee				
2	Benefits.	00100		\$	629,147
3	Unclassified.	09900			15,139
4	Current Expenses.	13000			440,291
5	Repairs and Alterations.	06400			2,600
6	Equipment.	07000			<u>426,741</u>
7	Total.			\$	1,513,918

8 There is hereby appropriated from this fund, in addition to
 9 the above appropriations, the necessary amount for the
 10 expenditure of funds other than personal services and employee

11 benefits to enable the division to pay the direct expenses relating
 12 to land sales as provided in Chapter 11A of the West Virginia
 13 Code.

14 The total amount of these appropriations shall be paid from
 15 the special revenue fund out of fees and collections as provided
 16 by law.

*122 - Auditor's Office –
 Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2015 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 308,087
3	Current Expenses.	13000	62,030
4	Repairs and Alterations.	06400	6,000
5	Equipment.	07000	10,805
6	Other Assets.	69000	<u>50,000</u>
7	Total.		\$ 436,922

*123 - Auditor's Office –
 Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2015 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,882,510
3	Unclassified.	09900	31,866
4	Current Expenses.	13000	838,830
5	Repairs and Alterations.	06400	12,400
6	Equipment.	07000	19,700
7	Other Assets.	69000	<u>673,326</u>

164	APPROPRIATIONS	[Ch. 13
8	Total.....	\$ 3,458,632

*124 - Auditor's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2015 Org 1200

1	Current Expenses.....	13000	\$ 300,000
2	Other Assets.....	69000	<u>100,000</u>
3	Total.....		\$ 400,000

4 Fifty percent of the deposits made into this fund shall be
5 transferred to the Treasurer's Office – Technology Support and
6 Acquisition Fund (fund 1329, org 1300) for expenditure for the
7 purposes described in W.Va. Code §12-3-10c.

*125 - Auditor's Office –
Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2015 Org 1200

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 2,499,307
3	Current Expenses.....	13000	1,578,622
4	Repairs and Alterations.....	06400	5,500
5	Equipment.....	07000	650,000
6	Other Assets.....	69000	<u>308,886</u>
7	Total.....		\$ 5,042,315

8 There is hereby appropriated from this fund, in addition to
9 the above appropriations, the amount necessary to meet the
10 transfer requirements to the Purchasing Improvement Fund (fund
11 2264) and the Hatfield-McCoy Regional Recreation Authority
12 per W.Va. Code §12-3-10d.

*126 - Auditor's Office –
Office of the Chief Inspector*

(WV Code Chapter 6)

Fund 1235 FY 2015 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,405,512
3	Current Expenses.	13000	765,915
4	Equipment.	07000	<u>50,000</u>
5	Total.		\$ 4,221,427

*127 - Auditor's Office –
Volunteer Fire Department Workers'
Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2015 Org 1200

1	Volunteer Fire Department		
2	Workers' Compensation		
3	Subsidy.	83200	\$ 4,000,000

*128 - Treasurer's Office –
College Prepaid Tuition and Savings Program
Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2015 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 769,227
3	Unclassified.	09900	14,000
4	Current Expenses.	13000	<u>625,404</u>
5	Total.		\$ 1,408,631

*129 - Treasurer's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1329 FY 2015 Org 1300

1	Personal Services and Employee		
2	Benefits. 00100	\$	183,074
3	Unclassified. 09900		4,700
4	Current Expenses. 13000		228,875
5	Other Assets. 69000		60,000
6	Total.....	\$	476,649

*130 - Department of Agriculture –
Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2015 Org 1400

1	Personal Services and Employee		
2	Benefits. 00100	\$	2,244,245
3	Unclassified. 09900		37,425
4	Current Expenses. 13000		1,356,184
5	Repairs and Alterations. 06400		58,500
6	Equipment. 07000		36,209
7	Other Assets. 69000		10,000
8	Total.....	\$	3,742,563

*131 - Department of Agriculture –
West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2015 Org 1400

1 Personal Services and Employee

Ch. 13]	APPROPRIATIONS	167
2	Benefits. 00100	\$ 73,807
3	Unclassified. 09900	10,476
4	Current Expenses. 13000	<u>963,404</u>
5	Total.	\$ 1,047,687

*132 - Department of Agriculture –
General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2015 Org 1400

1	Unclassified. 09900	\$ 2,100
2	Current Expenses. 13000	129,500
3	Repairs and Alterations. 06400	47,400
4	Equipment. 07000	<u>31,000</u>
5	Total.	\$ 210,000

6 The above appropriations shall be expended in accordance
7 with Article 26, Chapter 19 of the Code.

*133 - Department of Agriculture –
Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2015 Org 1400

1	Personal Services and Employee	
2	Benefits. 00100	\$ 309,248
3	Unclassified. 09900	15,173
4	Current Expenses. 13000	1,167,464
5	Repairs and Alterations. 06400	238,722
6	Equipment. 07000	249,393
7	Other Assets. 69000	<u>20,000</u>
8	Total.	\$ 2,000,000

*134 - Department of Agriculture –
Donated Food Fund*

APPROPRIATIONS

[Ch. 13]

(WV Code Chapter 19)

Fund 1446 FY 2015 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 958,864
3	Unclassified.	09900	45,807
4	Current Expenses.	13000	3,410,542
5	Repairs and Alterations.	06400	128,500
6	Equipment.	07000	10,000
7	Other Assets.	69000	<u>27,000</u>
8	Total.		\$ 4,580,713

*135 - Department of Agriculture –
Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2015 Org 1400

1	Current Expenses.	13000	\$ 25,000
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*136 - Department of Agriculture –
West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2015 Org 1400

1	Current Expenses.	13000	\$ 100
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*137 - Attorney General –
Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2015 Org 1500

1	Personal Services and Employee		
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Ch. 13]	APPROPRIATIONS	169
2	Benefits. 00100	\$ 362,000
3	Current Expenses. 13000	137,703
4	Repairs and Alterations. 06400	3,000
5	Equipment. 07000	<u>5,000</u>
6	Total.	\$ 507,703

*138 - Attorney General –
Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2015 Org 1500

1	Personal Services and Employee	
2	Benefits. 00100	\$ 229,776
3	Current Expenses. 13000	29,065
4	Repairs and Alterations. 06400	3,000
5	Equipment. 07000	<u>5,000</u>
6	Total.	\$ 266,841

*139 - Attorney General –
Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2015 Org 1500

1	Current Expenses. 13000	\$ 901,135
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*140 - Secretary of State –
Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2015 Org 1600

1	Personal Services and Employee	
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170	APPROPRIATIONS		[Ch. 13
2	Benefits.	00100	\$ 791,051
3	Unclassified.	09900	4,524
4	Current Expenses.	13000	8,036
5	Total.		\$ 803,611

*141 - Secretary of State –
General Administrative Fees Account*

(WV Code Chapters 3, 5 and 59)

Fund 1617 FY 2015 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,488,015
3	Unclassified.	09900	25,529
4	Current Expenses.	13000	721,306
5	Technology Improvements.	59900	750,000
6	Total.		\$ 3,984,850

DEPARTMENT OF ADMINISTRATION

*142 - Department of Administration –
Office of the Secretary –
Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2015 Org 0201

1	Tobacco Settlement Fund –		
2	Transfer.	90200	\$ 3,501,170

3 The above appropriation for Tobacco Settlement Fund –
4 Transfer (appropriation 90200) shall be transferred to the
5 Division of Health (fund 5124, org 0506) for expenditure.

*143 - Department of Administration –
Office of the Secretary*

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2015 Org 0201

1 Current Expenses..... 13000 \$ 32,304,000

2 The above appropriation for Current Expenses (fund 2044,
3 appropriation 13000) shall be transferred to the Consolidated
4 Public Retirement Board – West Virginia Teachers’ Retirement
5 System Employers Accumulation Fund (fund 2601).

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2015 Org 0210

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 23,378,322
3	Unclassified.....	09900	382,354
4	Current Expenses.....	13000	11,394,766
5	Repairs and Alterations.....	06400	1,000
6	Equipment.....	07000	2,034,000
7	Other Assets.....	69000	<u>1,045,000</u>
8	Total.....		\$ 38,235,442

9 The total amount of these appropriations shall be paid from
10 a special revenue fund out of collections made by the division of
11 information services and communications as provided by law.

12 Each spending unit operating from the general revenue fund,
13 from special revenue funds or receiving reimbursement for
14 postage from the federal government shall be charged monthly
15 for all postage meter service and shall reimburse the revolving
16 fund monthly for all such amounts.

145 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2015 Org 0213

1	Personal Services and Employee		
2	Benefits. 00100	\$	654,444
3	Unclassified. 09900		2,382
4	Current Expenses. 13000		238,879
5	Repairs and Alterations. 06400		5,000
6	Equipment. 07000		2,500
7	Other Assets. 69000		2,500
8	BRIM Premium. 1300		810
9	Total.....	\$	906,515

*146 - Division of Purchasing –
Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2015 Org 0213

1	Personal Services and Employee		
2	Benefits. 00100	\$	400,649
3	Unclassified. 09900		5,562
4	Current Expenses. 13000		393,306
5	Repairs and Alterations. 06400		500
6	Equipment. 07000		500
7	Other Assets. 69000		500
8	BRIM Premium. 91300		850
9	Total.....	\$	801,867

*147 - Travel Management
Fleet Management Office Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2015 Org 0215

1	Personal Services and Employee		
2	Benefits.	00100	\$ 722,586
3	Unclassified.	09900	4,000
4	Current Expenses.	13000	8,819,614
5	Repairs and Alterations.	06400	12,000
6	Equipment.	07000	104,000
7	Other Assets.	69000	<u>9,000</u>
8	Total.		\$ 9,671,200

*148 - Travel Management
Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2015 Org 0215

1	Unclassified.	09900	\$ 1,000
2	Current Expenses.	13000	149,000
3	Repairs and Alterations.	06400	400,237
4	Equipment.	07000	1,000
5	Other Assets.	69000	<u>1,000</u>
6	Total.		\$ 552,237

*149 - Board of Risk and Insurance Management -
Premium Tax Savings Fund*

(WV Code Chapter 29)

Fund 2367 FY 2015 Org 0218

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150 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2015 Org 0222

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,942,590
3	Unclassified.	09900	51,418
4	Current Expenses.	13000	1,062,813
5	Repairs and Alterations.	06400	5,000
6	Equipment.	07000	20,000
7	Other Assets.	69000	<u>60,000</u>
8	Total.		\$ 5,141,821

9 The total amount of these appropriations shall be paid from
10 a special revenue fund out of fees collected by the division of
11 personnel.

151 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2015 Org 0228

1	Personal Services and Employee		
2	Benefits.	00100	\$ 249,242
3	Unclassified.	09900	5,524
4	Current Expenses.	13000	294,527
5	Repairs and Alterations.	06400	600
6	Equipment.	07000	1,500

* CLERK'S NOTE: The Governor deleted language on lines 1 through 5.

Ch. 13]	APPROPRIATIONS	175
7	Other Assets..... 69000	<u>1,000</u>
8	Total.....	\$ 552,393

*152 - Office of Technology –
Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2015 Org 0231

1	Personal Services and Employee		
2	Benefits. 00100	\$	399,911
3	Unclassified. 09900		6,949
4	Current Expenses. 13000		227,116
5	Repairs and Alterations. 06400		1,000
6	Equipment. 07000		50,000
7	Other Assets..... 69000		<u>10,000</u>
8	Total.....	\$	694,976

9 From the above fund, the provisions of W.Va. Code §11B-2-
10 18 shall not operate to permit expenditures in excess of the funds
11 authorized for expenditure herein.

DEPARTMENT OF COMMERCE

153 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2015 Org 0305

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,261,530
3	Current Expenses..... 13000		172,000

176	APPROPRIATIONS	[Ch. 13
4	Repairs and Alterations. 06400	<u>8,000</u>
5	Total.....	\$ 1,441,530

*154 - Division of Forestry –
Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2015 Org 0305

1	Personal Services and Employee	
2	Benefits. 00100	\$ 165,641
3	Current Expenses. 13000	87,036
4	Repairs and Alterations. 06400	<u>11,250</u>
5	Total.....	\$ 263,927

*155 - Geological and Economic Survey –
Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2015 Org 0306

1	Personal Services and Employee	
2	Benefits. 00100	\$ 38,298
3	Unclassified. 09900	2,182
4	Current Expenses. 13000	141,299
5	Repairs and Alterations. 06400	6,500
6	Equipment. 07000	20,000
7	Other Assets..... 69000	<u>10,000</u>
8	Total.....	\$ 218,279

9 The above appropriations shall be used in accordance with
10 W.Va. Code §29-2-4.

*156 - West Virginia Development Office –
Department of Commerce*

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2015 Org 0307

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,528,219
3	Unclassified. 09900		30,000
4	Current Expenses. 13000		<u>1,482,760</u>
5	Total.....	\$	3,040,979

*157 - West Virginia Development Office –
Broadband Deployment Fund*

(WV Code Chapter 31)

Fund 3174 FY 2015 Org 0307

1	Current Expenses. 13000	\$	3,801,325
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*158 - Division of Labor –
Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,519,374
3	Unclassified. 09900		21,589
4	Current Expenses. 13000		597,995
5	Repairs and Alterations. 06400		15,000
6	Buildings. 25800		<u>5,000</u>
7	Total.....	\$	2,158,958

*159 - Division of Labor –
Elevator Safety Act*

(WV Code Chapter 21)

Fund 3188 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 176,772
3	Unclassified.	09900	2,261
4	Current Expenses.	13000	44,112
5	Repairs and Alterations.	06400	2,000
6	Buildings.	25800	<u>1,000</u>
7	Total.....		\$ 226,145

*160 - Division of Labor –
Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 84,380
3	Unclassified.	09900	1,380
4	Current Expenses.	13000	49,765
5	Repairs and Alterations.	06400	1,500
6	Buildings.	25800	<u>1,000</u>
7	Total.....		\$ 138,025

*161 - Division of Labor –
Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 79,316
3	Unclassified.	09900	1,281
4	Current Expenses.	13000	44,520
5	Repairs and Alterations.	06400	2,000

Ch. 13]	APPROPRIATIONS	179
6	Buildings. 25800	<u>1,000</u>
7	Total.....	\$ 128,117

*162 - Division of Labor –
State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2015 Org 0308

1	Personal Services and Employee	
2	Benefits. 00100	\$ 133,768
3	Unclassified. 09900	1,847
4	Current Expenses. 13000	43,700
5	Repairs and Alterations. 06400	1,000
6	Buildings. 25800	1,000
7	BRIM Premium. 91300	<u>3,404</u>
8	Total.....	\$ 184,719

*163 - Division of Labor –
Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2015 Org 0308

1	Current Expenses. 13000	\$ 48,000
2	Repairs and Alterations. 06400	81,000
3	Equipment. 07000	<u>76,000</u>
4	Total.....	\$ 205,000

*164 - Division of Natural Resources –
License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2015 Org 0310

180	APPROPRIATIONS	[Ch. 13
1	Wildlife Resources..... 02300	\$ 6,151,895
2	Administration..... 15500	1,537,974
3	Capital Improvements and	
4	Land Purchase (R) 24800	1,538,261
5	Law Enforcement..... 80600	<u>6,151,895</u>
6	Total.....	\$ 15,380,025

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of fees collected by the division of
9 natural resources.

10 Any unexpended balance remaining in the appropriation for
11 Capital Improvements and Land Purchase (fund 3200,
12 appropriation 24800) at the close of the fiscal year 2014 is
13 hereby reappropriated for expenditure during the fiscal year
14 2015.

*165 - Division of Natural Resources –
Game, Fish and Aquatic Life Fund*

(WV Code Chapter 20)

Fund 3202 FY 2015 Org 0310

1	Current Expenses..... 13000	\$ 125,000
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*166 - Division of Natural Resources –
Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2015 Org 0310

1	Personal Services and Employee	
2	Benefits. 00100	\$ 678,109
3	Current Expenses..... 13000	201,930
4	Equipment. 07000	<u>106,615</u>

APPROPRIATIONS

5	Total.....	\$	986,654
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*167 - Division of Natural Resources –
Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2015 Org 0310

1	Personal Services and Employee		
2	Benefits. 00100	\$	189,520
3	Current Expenses. 13000		157,864
4	Repairs and Alterations. 06400		15,016
5	Equipment. 07000		8,300
6	Buildings. 25800		8,300
7	Other Assets. 69000		1,000,000
8	Land. 73000		<u>31,700</u>
9	Total.....	\$	1,410,700

*168 - Division of Natural Resources –
Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2015 Org 0310

1	Personal Services and Employee		
2	Benefits. 00100	\$	62,704
3	Current Expenses. 13000		64,778
4	Equipment. 07000		1,297
5	Buildings. 25800		<u>6,969</u>
6	Total.....	\$	135,748

*169 - Division of Natural Resources –
Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2015 Org 0310

182	APPROPRIATIONS	[Ch. 13
1	Unclassified. 09900	\$ 200
2	Current Expenses. 13000	<u>19,800</u>
3	Total.	\$ 20,000

*170 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2015 Org 0314

1	Personal Services and Employee	
2	Benefits. 00100	\$ 471,606
3	WV Mining Extension Service. 02600	150,000
4	Unclassified. 09900	40,985
5	Current Expenses. 13000	1,954,557
6	Buildings. 25800	481,358
7	Land. 73000	<u>1,000,000</u>
8	Total.	\$ 4,098,506

*171 - Division of Energy –
Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2015 Org 0328

1	Energy Assistance – Total. 64700	\$ 172,000
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*172 - Division of Energy –
Office of Coal Field Community Development*

(WV Code Chapter 5B)

Fund 3011 FY 2015 Org 0328

1	Personal Services and Employee	
2	Benefits. 00100	\$ 430,724
3	Unclassified. 09900	8,300

Ch. 13]	APPROPRIATIONS	183
4	Current Expenses. 13000	394,191
5	Repairs and Alterations. 06400	1,000
6	Equipment. 07000	4,000
7	Total.	<u>\$ 838,215</u>

DEPARTMENT OF EDUCATION

*173 - State Board of Education –
Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2015 Org 0402

1	Personal Services and Employee	
2	Benefits. 00100	\$ 134,000
3	Unclassified. 09900	1,000
4	Current Expenses. 13000	265,000
5	Total.	<u>\$ 400,000</u>

174 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2015 Org 0402

1	Personal Services and Employee	
2	Benefits. 00100	\$ 1,086,552
3	Current Expenses. 13000	249,750
4	Repairs and Alterations. 06400	7,500
5	Equipment. 07000	26,000
6	Total.	<u>\$ 1,369,802</u>

7 The above appropriations are for the administrative expenses
8 of the school building authority and shall be paid from the
9 interest earnings on debt service reserve accounts maintained on
10 behalf of said authority.

*175 - State Board of Education –
FFA-FHA Camp and Conference Center*

(WV Code Chapter 18)

Fund 3960 FY 2015 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,169,194
3	Unclassified.....	09900	17,000
4	Current Expenses.....	13000	707,223
5	Repairs and Alterations.....	06400	57,500
6	Equipment.....	07000	1,000
7	Buildings.....	25800	1,000
8	Other Assets.....	69000	10,000
9	Land.....	73000	<u>1,000</u>
10	Total.....		\$ 1,963,917

DEPARTMENT OF EDUCATION AND THE ARTS

*176 - Office of the Secretary –
Lottery Education Fund Interest Earnings –
Control Account*

(WV Code Chapter 29)

Fund 3508 FY 2015 Org 0431

- 1 Any unexpended balance remaining in the appropriation for
- 2 Educational Enhancements (fund 3508, appropriation 69500) at
- 3 the close of the fiscal year 2014 is hereby reappropriated for
- 4 expenditure during the fiscal year 2015.

*177 - Division of Culture and History –
Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2015 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 211,083
3	Current Expenses.	13000	862,241
4	Equipment.	07000	75,000
5	Buildings.	25800	1,000
6	Other Assets.	69000	52,328
7	Land.	73000	<u>1,000</u>
8	Total.		\$ 1,202,652

*178 - State Board of Rehabilitation –
 Division of Rehabilitation Services –
 West Virginia Rehabilitation Center –
 Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2015 Org 0932

1	Personal Services and		
2	Employee Benefits.	00100	\$ 119,738
3	Current Expenses.	13000	2,400,122
4	Repairs and Alterations.	06400	85,500
5	Buildings.	25800	150,000
6	Other Assets.	69000	<u>150,000</u>
7	Total.		\$ 2,905,360

DEPARTMENT OF ENVIRONMENTAL PROTECTION

179 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2015 Org 0312

1	Personal Services and Employee		
2	Benefits.	00100	\$ 803,589
3	Current Expenses.	13000	2,059,677

APPROPRIATIONS

4	Repairs and Alterations.	06400		1,000
5	Equipment.	07000		5,000
6	Other Assets.	69000		4,403
7	Total.		\$	2,873,669

*180 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2015 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	611,197
3	Current Expenses.	13000		88,733
4	Repairs and Alterations.	06400		500
5	Equipment.	07000		3,000
6	Other Assets.	69000		2,000
7	Total.		\$	705,430

*181 - Division of Environmental Protection –
Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2015 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	465,324
3	Current Expenses.	13000		1,251,510
4	Repairs and Alterations.	06400		13,000
5	Equipment.	07000		53,105
6	Other Assets.	69000		10,000
7	Total.		\$	1,792,939

*182 - Division of Environmental Protection –
Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,350,829
3	Current Expenses.	13000	16,402,506
4	Repairs and Alterations.	06400	79,950
5	Equipment.	07000	130,192
6	Other Assets.	69000	<u>32,000</u>
7	Total.		\$ 17,995,477

*183 - Division of Environmental Protection –
Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 163,594
3	Current Expenses.	13000	<u>512,329</u>
4	Total.		\$ 675,923

*184 - Division of Environmental Protection –
Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,899,788
3	Current Expenses.	13000	1,414,609
4	Repairs and Alterations.	06400	15,600
5	Equipment.	07000	8,000
6	Other Assets.	69000	<u>15,000</u>
7	Total.		\$ 4,352,997

*185 - Division of Environmental Protection –
Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,635,449
3	Current Expenses.	13000	2,407,012
4	Repairs and Alterations.	06400	60,260
5	Equipment.	07000	85,134
6	Other Assets.	69000	<u>57,500</u>
7	Total.		\$ 7,245,355

*186 - Division of Environmental Protection –
Underground Storage Tank
Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 441,543
3	Current Expenses.	13000	301,940
4	Repairs and Alterations.	06400	5,350
5	Equipment.	07000	3,610
6	Other Assets.	69000	<u>3,500</u>
7	Total.		\$ 755,943

*187 - Division of Environmental Protection –
Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2015 Org 0313

Ch. 13] APPROPRIATIONS 189

1	Personal Services and Employee		
2	Benefits.	00100	\$ 643,319
3	Current Expenses.	13000	433,002
4	Repairs and Alterations.	06400	7,014
5	Equipment.	07000	9,000
6	Other Assets.	69000	11,700
7	Total.		<u> </u> \$ 1,104,035

*188 - Division of Environmental Protection –
Solid Waste Reclamation and
Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 779,261
3	Current Expenses.	13000	3,657,693
4	Repairs and Alterations.	06400	10,150
5	Equipment.	07000	31,500
6	Other Assets.	69000	1,000
7	Total.		<u> </u> \$ 4,479,604

*189 - Division of Environmental Protection –
Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,893,948
3	Current Expenses.	13000	898,850
4	Repairs and Alterations.	06400	31,930
5	Equipment.	07000	28,356
6	Other Assets.	69000	25,554
7	Total.		<u> </u> \$ 3,878,638

*190 - Division of Environmental Protection –
Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	5,657,502
3	Current Expenses. 13000		1,561,334
4	Repairs and Alterations. 06400		74,045
5	Equipment. 07000		106,927
6	Other Assets. 69000		44,249
7	Total.	\$	7,444,057

*191 - Division of Environmental Protection –
Environmental Laboratory
Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	268,164
3	Current Expenses. 13000		94,688
4	Repairs and Alterations. 06400		1,000
5	Equipment. 07000		6,500
6	Other Assets. 69000		4,000
7	Total.	\$	374,352

*192 - Division of Environmental Protection –
Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2015 Org 0313

1	Current Expenses.....	13000	\$	11,294,705
2	Repairs and Alterations.....	06400		2,500
3	Equipment.....	07000		500
4	Other Assets.....	69000		<u>500</u>
5	Total.....		\$	11,298,205

*193 - Division of Environmental Protection –
Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2015 Org 0313

1	Current Expenses.....	13000	\$	60,000
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*194 - Division of Environmental Protection –
Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2015 Org 0313

1	Personal Services and Employee			
2	Benefits.....	00100	\$	544,553
3	Current Expenses.....	13000		2,237,354
4	Repairs and Alterations.....	06400		800
5	Equipment.....	07000		500
6	Other Assets.....	69000		<u>2,500</u>
7	Total.....		\$	2,785,707

*195 - Division of Environmental Protection –
Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,228,345
3	Current Expenses.	13000	649,909
4	Repairs and Alterations.	06400	20,112
5	Equipment.	07000	23,725
6	Other Assets.	69000	<u>15,500</u>
7	Total.		\$ 1,937,591

*196 - Oil and Gas Conservation Commission –
Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2015 Org 0315

1	Personal Services and Employee		
2	Benefits.	00100	\$ 157,224
3	Current Expenses.	13000	61,225
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	9,481
6	Other Assets.	69000	<u>1,500</u>
7	Total.		\$ 230,430

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

*197 - Division of Health –
Tobacco Settlement Expenditure Fund*

(WV Code Chapter 4)

Fund 5124 FY 2015 Org 0506

1	Institutional Facilities Operations. .	33500	\$ 3,501,170
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2 Additional funds have been appropriated in fund 0525, fiscal
 3 year 2015, organization 0506, and fund 5156, fiscal year 2015,
 4 organization 0506, for the operation of the institutional facilities.
 5 The secretary of the department of health and human resources
 6 is authorized to utilize up to ten percent of the funds from the
 7 appropriation for Institutional Facilities Operations to facilitate
 8 cost effective and cost saving services at the community level.

*198 - Division of Health –
 The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	876,771
3	Unclassified... 09900		15,500
4	Current Expenses. 13000		185,954
5	Equipment. 07000		30,000
6	Other Assets. 69000		441,834
7	Total.....	\$	1,550,059

*199 - Division of Health –
 Hospital Services Revenue Account
 Special Fund*

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2015 Org 0506

1	Institutional Facilities Operations. . 33500	\$	56,708,911
2	Medical Services Trust Fund –		
3	Transfer. 51200		27,800,000
4	Total.....	\$	84,508,911

5 The total amount of these appropriations shall be paid from
6 the hospital services revenue account special fund created by
7 W.Va. Code §16-1-13, and shall be used for operating expenses
8 and for improvements in connection with existing facilities.

9 Additional funds have been appropriated in fund 0525, fiscal
10 year 2015, organization 0506 and fund 5124, fiscal year 2015,
11 organization 0506, for the operation of the institutional facilities.
12 The secretary of the department of health and human resources
13 is authorized to utilize up to ten percent of the funds from the
14 appropriation for Institutional Facilities Operations to facilitate
15 cost effective and cost saving services at the community level.

16 Necessary funds from the above appropriation may be used
17 for medical facilities operations, either in connection with this
18 fund or in connection with the appropriation designated
19 Institutional Facilities Operations in the consolidated medical
20 service fund (fund 0525, organization 0506).

21 From the above appropriation to Institutional Facilities
22 Operations, together with available funds from the consolidated
23 medical services fund (fund 0525, appropriation 33500) on July
24 1, 2014, the sum of \$160,000 shall be transferred to the
25 department of agriculture – land division – farm operation fund
26 (1412) as advance payment for the purchase of food products;
27 actual payments for such purchases shall not be required until
28 such credits have been completely expended.

*200 - Division of Health –
Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2015 Org 0506

1 Personal Services and Employee

Ch. 13]	APPROPRIATIONS		195
2	Benefits.	00100	\$ 912,657
3	Unclassified.	09900	18,114
4	Current Expenses.	13000	850,133
5	Equipment.	07000	<u>30,583</u>
6	Total.....		\$ 1,811,487

*201 - Division of Health –
The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 605,950
3	Unclassified.	09900	7,113
4	Current Expenses.	13000	<u>98,247</u>
5	Total.....		\$ 711,310

*202 - Division of Health –
Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 88,582
3	Unclassified... ..	09900	18,477
4	Current Expenses.	13000	<u>1,740,699</u>
5	Total.....		\$ 1,847,758

*203 - Division of Health –
Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2015 Org 0506

196

APPROPRIATIONS

[Ch. 13

1	Personal Services and Employee		
2	Benefits. 00100	\$	19,100
3	Unclassified. 09900		373
4	Current Expenses. 13000		<u>17,875</u>
5	Total.....	\$	37,348

*204 - Division of Health –
West Virginia Birth to Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	707,545
3	Unclassified. 09900		223,999
4	Current Expenses. 13000		<u>21,468,438</u>
5	Total.....	\$	22,399,982

*205 - Division of Health –
Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2015 Org 0506

1	Current Expenses. 13000	\$	7,579
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*206 - West Virginia Health Care Authority –
Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2015 Org 0507

1	Personal Services and Employee		
2	Benefits. 00100	\$	3,033,821
3	Hospital Assistance. 02500		600,000

Ch. 13]	APPROPRIATIONS	197
4	Unclassified. 09900	67,000
5	Current Expenses. 13000	2,837,945
6	Repairs and Alterations. 06400	25,000
7	Equipment. 07000	50,000
8	Buildings. 25800	25,000
9	Other Assets. 69000	<u>100,000</u>
10	Total.	\$ 6,738,766

11 The above appropriation is to be expended in accordance
12 with and pursuant to the provisions of W.Va. Code §16-29B and
13 from the special revolving fund designated health care cost
14 review fund.

15 The Health Care Authority is authorized to transfer up to
16 \$1,500,000 from fund 5375 to the West Virginia Health
17 Information Network Account (fund 5380) as authorized per
18 W.Va. Code §16-29G-4.

*207 - West Virginia Health Care Authority –
West Virginia Health Information Network Account*

(WV Code Chapter 16)

Fund 5380 FY 2015 Org 0507

1	Personal Services and Employee	
2	Benefits. 00100	\$ 729,000
3	Unclassified. 09900	20,000
4	Current Expenses. 13000	1,251,000
5	Technology Infrastructure	
6	Network. 35100	<u>3,500,000</u>
7	Total.	\$ 5,500,000

*208 - West Virginia Health Care Authority –
Revolving Loan Fund*

(WV Code Chapter 16)

Fund 5382 FY 2015 Org 0507

1	Current Expenses.	13000	\$	2,000,000
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*209 - Division of Human Services –
Health Care Provider Tax –
Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2015 Org 0511

1	Medical Services.	18900	\$	188,381,008
2	Medical Services Administrative			
3	Costs.	78900		<u>418,992</u>
4	Total.		\$	188,800,000

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 West Virginia medical services fund (fund 5084).

*210 - Division of Human Services –
Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2015 Org 0511

1	Personal Services and Employee			
2	Benefits.	00100	\$	24,809,509
3	Unclassified (R).	09900		380,000
4	Current Expenses (R).	13000		<u>12,810,491</u>
5	Total.		\$	38,000,000

6 Any unexpended balances remaining in the appropriations
 7 for Unclassified (fund 5094, appropriation 09900) and Current
 8 Expenses (fund 5094, appropriation 13000) at the close of the
 9 fiscal year 2014 are hereby reappropriated for expenditure
 10 during the fiscal year 2015.

*211 - Division of Human Services –
 Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2015 Org 0511

1	Medical Services.	18900	\$ 182,698,418
2	Medical Services Administrative		
3	Costs.	78900	<u>548,723</u>
4	Total.		\$ 183,247,141

5 The above appropriation to Medical Services shall be used
 6 to provide state match of Medicaid expenditures as defined and
 7 authorized in subsection (c) of W.Va. Code §9-4A-2a.
 8 Expenditures from the fund are limited to the following:
 9 payment of backlogged billings, funding for services to future
 10 federally mandated population groups and payment of the
 11 required state match for medicaid disproportionate share
 12 payments. The remainder of all moneys deposited in the fund
 13 shall be transferred to the division of human services accounts.

*212 - Division of Human Services –
 James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2015 Org 0511

1 Personal Services and Employee

200	APPROPRIATIONS	[Ch. 13
2	Benefits. 00100	\$ 89,392
3	Unclassified. 09900	16,031
4	Current Expenses. 13000	<u>1,497,688</u>
5	Total.	\$ 1,603,111

*213 - Division of Human Services –
Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2015 Org 0511

1	Current Expenses. 13000	\$ 1,077,982
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*214 - Division of Human Services –
West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2015 Org 0511

1	Current Expenses. 13000	\$ 1,065,000
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*215 - Division of Human Services –
West Virginia Works Separate State Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2015 Org 0511

1	Current Expenses. 13000	\$ 3,390,000
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*216 - Division of Human Services –
Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2015 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,000
3	Current Expenses.	13000	<u>25,000</u>
4	Total.		\$ 35,000

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*217 - Department of Military Affairs and Public Safety –
Office of the Secretary –
Law-Enforcement, Safety and Emergency Worker
Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2015 Org 0601

1	Current Expenses.	13000	\$ 32,000
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*218 - State Armory Board –
General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2015 Org 0603

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,643,348
3	Current Expenses.	13000	750,000
4	Repairs and Alterations.	06400	485,652
5	Equipment.	07000	300,000
6	Buildings.	25800	771,000
7	Land.	73000	<u>50,000</u>
8	Total.		\$ 4,000,000

9 From the above appropriations, the Adjutant General may
 10 receive and expend funds to conduct operations and activities to
 11 include functions of the Military Authority. The Adjutant
 12 General may transfer funds between appropriations, except no
 13 funds may be transferred to Personal Services and Employee
 14 Benefits (fund 6057, appropriation 00100).

*219 - Division of Homeland Security and
 Emergency Management –
 West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2015 Org 0606

1 Current Expenses. 13000 \$ 2,000,000

2 Any unexpended balance remaining in the appropriation for
 3 Unclassified – Total (fund 6295, appropriation 09600) at the
 4 close of fiscal year 2014 is hereby reappropriated for expenditure
 5 during the fiscal year 2015.

*220 - West Virginia Division of Corrections –
 Parolee Supervision Fees*

(WV Code Chapter 62)

Fund 6362 FY 2015 Org 0608

1	Personal Services and Employee		
2	Benefits. 00100	\$	513,793
3	Unclassified. 09900		9,804
4	Current Expenses. 13000		408,480
5	Equipment. 07000		30,000
6	Other Assets. 69000		40,129
7	Total.	\$	<u>1,002,206</u>

221 - West Virginia State Police –
Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2015 Org 0612

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,139,560
3	Current Expenses. 13000		260,688
4	Repairs and Alterations. 06400		4,500
5	Equipment. 07000		170,000
6	Buildings. 25800		534,000
7	Other Assets. 69000		5,000
8	BRIM Premium. 91300		<u>302,432</u>
9	Total.....	\$	2,416,180

10 The total amount of these appropriations shall be paid from
11 the special revenue fund out of fees collected for inspection
12 stickers as provided by law. Per W.Va. §17C-16-5(a) any
13 balance remaining in the fund on the last day of June of each
14 fiscal year, not required for the administration and enforcement
15 of the provisions of this article, shall be transferred to the state
16 road fund.

222 - West Virginia State Police –
Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2015 Org 0612

1	Current Expenses. 13000	\$	1,327,000
2	Equipment. 07000		3,491,895
3	BRIM Premium. 91300		<u>154,452</u>
4	Total.....	\$	4,973,347

5 The total amount of these appropriations shall be paid from
 6 the special revenue fund out of receipts collected pursuant to
 7 W.Va. Code §11-15-9a and 16 and paid into a revolving fund
 8 account in the state treasury.

*223 - West Virginia State Police –
 Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2015 Org 0612

1	Buildings.	25800	\$	443,980
2	Land.	73000		1,000
3	BRIM Premium.	91300		<u>77,222</u>
4	Total.		\$	522,202

*224 - West Virginia State Police –
 Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2015 Org 0612

1	Current Expenses.	13000	\$	114,063
2	Repairs and Alterations.	06400		10,000
3	Equipment.	07000		157,002
4	Buildings.	25800		40,000
5	Other Assets.	69000		<u>45,000</u>
6	Total.		\$	366,065

*225 - West Virginia State Police –
 Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2015 Org 0612

1	Personal Services and Employee			
2	Benefits.	00100	\$	220,235

Ch. 13]	APPROPRIATIONS	205
3	Current Expenses..... 13000	34,662
4	Repairs and Alterations. 06400	500
5	Equipment. 07000	500
6	Other Assets..... 69000	500
7	BRIM Premium. 91300	<u>18,524</u>
8	Total.....	\$ 274,921

*226 - West Virginia State Police –
Bail Bond Enforcer Fund*

(WV Code Chapter 15)

Fund 6532 FY 2015 Org 0612

1	Current Expenses..... 13000	\$ 8,300
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*227 - West Virginia State Police –
State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2015 Org 0612

1	Current Expenses..... 13000	\$ 160,000
2	Repairs and Alterations. 06400	<u>40,000</u>
3	Total.....	\$ 200,000

228 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2015 Org 0615

1	Personal Services and Employee	
2	Benefits. 00100	\$ 1,971,039
3	Debt Service..... 04000	9,000,000
4	Current Expenses..... 13000	495,852
5	Repairs and Alterations. 06400	4,000

206

APPROPRIATIONS

[Ch. 13

6	Equipment.	07000		<u>1,743</u>
7	Total.....		\$	11,472,634

*229 - Fire Commission –
Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2015 Org 0619

1	Personal Services and Employee			
2	Benefits.	00100	\$	2,848,036
3	Unclassified.	09900		3,800
4	Current Expenses.....	13000		1,238,550
5	Repairs and Alterations.	06400		54,500
6	Equipment.	07000		50,800
7	Other Assets.....	69000		12,000
8	BRIM Premium.	91300		<u>50,000</u>
9	Total.....		\$	4,257,686

*230 - Division of Justice and Community Services –
WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2015 Org 0620

1	Personal Services and Employee			
2	Benefits.	00100	\$	152,000
3	Unclassified.	09900		750
4	Current Expenses.....	13000		1,846,250
5	Repairs and Alterations.	06400		<u>1,000</u>
6	Total.....		\$	2,000,000

*231 - Division of Justice and Community Services –
Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2015 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 21,865
3	Current Expenses.	13000	<u>1,478,135</u>
4	Total.		\$ 1,500,000

DEPARTMENT OF REVENUE

232 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2015 Org 0303

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,409,034
3	Unclassified.	09900	32,290
4	Current Expenses.	13000	719,042
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	20,000
7	Other Assets.	69000	<u>47,710</u>
8	Total.		\$ 3,229,076

*233 - Office of the Secretary –
Revenue Shortfall Reserve Fund*

(WV Code Chapter 11B)

Fund 7005 FY 2015 Org 0701

- 1 Medical Services Trust Fund –
- 2 Transfer. 51200 \$*100,000,000
- 3 The above appropriation for Medical Services Trust Fund –
- 4 Transfer (appropriation 51200) shall be transferred to the
- 5 Medical Services Trust Fund (fund 5185).

* **CLERK’S NOTE:** The Governor reduced the amount in Item 233, line 2 from \$147,552,295 to \$100,000,000. The total does NOT reflect the reduction made by the Governor.

6 The above appropriation does not affect the provisions of
7 W.Va. Code Chapter 11B-2-20(e).

*234 - Office of the Secretary –
State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2015 Org 0701

1	Directed Transfer.	70000	20,000,000
2	Retirement Systems –		
3	Unfunded Liability.	77500	<u>20,000,000</u>
4	Total.		\$ 40,000,000

5 The above appropriation for Directed Transfer shall be
6 transferred to the Consolidated Public Retirement Board – West
7 Virginia Public Employees Retirement System Employers
8 Accumulation Fund (fund 2510).

9 The above appropriation for Retirement Systems – Unfunded
10 Liability (fund 7007, appropriation 77500) shall be transferred
11 to the Consolidated Public Retirement Board – West Virginia
12 Teachers’ Retirement System School Aid Formula Funds
13 Holding Account Fund (fund 2606).

*235 - Tax Division –
Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2015 Org 0702

1	Personal Services and Employee		
2	Benefits.	00100	\$ 23,459
3	Current Expenses.	13000	<u>7,717</u>
4	Total.		\$ 31,176

*236 - Tax Division –
Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2015 Org 0702

1	Personal Services and Employee		
2	Benefits.	00100	\$ 816,473
3	Unclassified.	09900	11,000
4	Current Expenses.	13000	260,527
5	Repairs and Alterations.	06400	7,000
6	Equipment.	07000	<u>5,000</u>
7	Total.		\$ 1,100,000

*237 - Tax Division –
Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2015 Org 0702

1	Personal Services and Employee		
2	Benefits.	00100	\$ 254,162
3	Current Expenses.	13000	<u>5,406</u>
4	Total.		\$ 259,568

*238 - Tax Division –
Reduced Cigarette Ignition Propensity
Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2015 Org 0702

1	Current Expenses.	13000	\$ 35,000
2	Equipment.	07000	<u>15,000</u>
3	Total.		\$ 50,000

*239 - Tax Division –
Local Sales Tax and Excise Tax
Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2015 Org 0702

1	Personal Services and Employee		
2	Benefits. 00100	\$	908,968
3	Unclassified. 09900		10,000
4	Current Expenses. 13000		84,563
5	Repairs and Alterations. 06400		1,000
6	Equipment. 07000		5,000
7	Total.	\$	1,009,531

*240 - State Budget Office –
Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2015 Org 0703

1	Public Employees Insurance		
2	Reserve Fund – Transfer. 90300	\$	6,800,000
3	The above appropriation for Public Employees Insurance		
4	Reserve Fund – Transfer shall be transferred to the Medical		
5	Services Trust Fund (fund 5185, org 0511) for expenditure.		

*241 - Insurance Commissioner –
Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2015 Org 0704

1	Personal Services and Employee		
2	Benefits. 00100	\$	718,045

Ch. 13]	APPROPRIATIONS	211
3	Current Expenses..... 13000	1,359,783
4	Repairs and Alterations. 06400	10,000
5	Equipment. 07000	50,000
6	Buildings. 25800	33,153
7	Other Assets..... 69000	11,426
8	Total.....	<u>\$ 2,182,407</u>

*242 - Insurance Commissioner –
Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2015 Org 0704

1	Personal Services and Employee	
2	Benefits. 00100	\$ 549,824
3	Current Expenses..... 13000	204,186
4	Repairs and Alterations. 06400	5,000
5	Equipment. 07000	20,000
6	Buildings. 25800	19,460
7	Other Assets..... 69000	19,460
8	Total.....	<u>\$ 817,930</u>

243 - Insurance Commissioner

(WV Code Chapter 33)

Fund 7152 FY 2015 Org 0704

1	Personal Services and Employee	
2	Benefits. 00100	\$ 24,929,987
3	Current Expenses..... 13000	8,547,598
4	Repairs and Alterations. 06400	68,614
5	Equipment. 07000	1,853,140
6	Buildings. 25800	100,000
7	Other Assets..... 69000	500,661
8	Total.....	<u>\$ 36,000,000</u>

*244 - Insurance Commissioner –
Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2015 Org 0704

1	Employee Benefits.....	01000	\$	100,000
2	Current Expenses.....	13000		<u>549,900,000</u>
3	Total.....		\$	550,000,000

*245 - Insurance Commissioner –
Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2015 Org 0704

1	Current Expenses.....	13000	\$	27,000,000
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*246 - Insurance Commissioner –
Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2015 Org 0704

1	Current Expenses.....	13000	\$	5,000,000
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*247 - Insurance Commissioner –
Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2015 Org 0704

1	Current Expenses.....	13000	\$	10,000,000
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*248 - Lottery Commission –
Revenue Center Construction Fund*

(WV Code Chapter 29)

Fund 7209 FY 2015 Org 0705

1 Buildings. 25800 \$ 1,639,577

249 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2015 Org 0706

1	Personal Services and Employee		
2	Benefits. 0100	\$	246,489
3	Current Expenses. 13000		105,878
4	Equipment. 07000		<u>100</u>
5	Total.	\$	352,467

*250 - Racing Commission –
Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2015 Org 0707

1 Medical Expenses – Total. 24500 \$ 57,000

2 The total amount of this appropriation shall be paid from the
3 special revenue fund out of collections of license fees and fines
4 as provided by law.

5 No expenditures shall be made from this fund except for
6 hospitalization, medical care and/or funeral expenses for persons
7 contributing to this fund.

*251 - Racing Commission –
Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2015 Org 0707

1	Personal Services and Employee		
2	Benefits. 00100	\$	256,665
3	Current Expenses. 13000		88,335
4	Other Assets. 69000		<u>10,000</u>
5	Total.	\$	355,000

*252 - Racing Commission –
General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2015 Org 0707

1	Personal Services and Employee		
2	Benefits. 00100	\$	2,271,339
3	Current Expenses. 13000		566,248
4	Repairs and Alterations. 06400		7,000
5	Other Assets. 69000		<u>50,000</u>
6	Total.	\$	2,894,587

*253 - Racing Commission –
Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs
to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2015 Org 0707

1	Personal Services and Employee		
2	Benefits. 00100	\$	864,474
3	Current Expenses. 13000		209,406

Ch. 13] APPROPRIATIONS 215

4	Repairs and Alterations.	06400		5,000
5	Other Assets.	69000		200,000
6	Total.		\$	1,278,880

*254 - Alcohol Beverage Control Administration –
Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2015 Org 0708

1	Personal Services and Employee			
2	Benefits.	00100	\$	122,339
3	Current Expenses.	13000		69,186
4	Repairs and Alterations.	06400		7,263
5	Equipment.	07000		10,000
6	Buildings.	25800		100,000
7	Other Assets.	69000		100
8	Total.		\$	308,888

9 To the extent permitted by law, four classified exempt
10 positions shall be provided from Personal Services and
11 Employee Benefits appropriation for field auditors.

255 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2015 Org 0708

1	Personal Services and Employee			
2	Benefits.	00100	\$	5,413,237
3	Current Expenses.	13000		2,897,577
4	Repairs and Alterations.	06400		84,000
5	Equipment.	07000		108,000
6	Buildings.	25800		100
7	Other Assets.	69000		100
8	Land.	73000		100
9	Total.		\$	8,503,114

216

APPROPRIATIONS

[Ch. 13

10 The total amount of these appropriations shall be paid from
11 a special revenue fund out of liquor revenues and any other
12 revenues available.

13 The above appropriations include the salary of the
14 commissioner and the salaries, expenses and equipment of
15 administrative offices, warehouses and inspectors.

16 The above appropriations include funding for the
17 Tobacco/Alcohol Education Program.

18 There is hereby appropriated from liquor revenues, in
19 addition to the above appropriations, the necessary amount for
20 the purchase of liquor as provided by law.

DEPARTMENT OF TRANSPORTATION

*256 - Division of Motor Vehicles –
Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2015 Org 0802

1 Current Expenses. 13000\$ 189,000

*257 - Division of Motor Vehicles –
Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2015 Org 0802

1	Personal Services and Employee		
2	Benefits. 00100	\$	2,668,799
3	Current Expenses. 13000		2,704,226
4	Repairs and Alterations. 06400		16,000

Ch. 13]	APPROPRIATIONS	217
5	Other Assets..... 69000	210,000
6	BRIM Premium. 91300	<u>53,486</u>
7	Total.....	\$ 5,652,511

*258 - Division of Highways –
A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2015 Org 0803

1	Current Expenses..... 13000	\$ 1,650,000
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*259 - Public Port Authority –
Special Railroad and Intermodal Enhancement Fund*

(WV Code Chapter 17)

Fund 8254 FY 2015 Org 0806

1	Current Expenses..... 13000	\$ 1,000,000
2	Other Assets..... 69000	<u>13,000,000</u>
3	Total.....	\$ 14,000,000

DEPARTMENT OF VETERANS' ASSISTANCE

260 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2015 Org 0613

1	Personal Services and Employee	
2	Benefits. 00100	\$ 94,210
3	Current Expenses..... 13000	2,255,997
4	Repairs and Alterations. 06400	10,000
5	Equipment. 07000	10,000

HIGHER EDUCATION POLICY COMMISSION

*263 - Higher Education Policy Commission –
 System –
 Registration Fee Capital Improvement Fund
 (Capital Improvement and Bond Retirement Fund)
 Control Account*

(WV Code Chapters 18 and 18B)

Fund 4902 FY 2015 Org 0442

- | | | | |
|---|--|----|---------|
| 1 | General Capital Expenditures. 30600 | \$ | 500,000 |
| 2 | The total amount of this appropriation shall be paid from the | | |
| 3 | special capital improvements fund created in W.Va. Code §18B- | | |
| 4 | 10-8. Projects are to be paid on a cash basis and made available | | |
| 5 | on July 1 of each year and may be transferred to special revenue | | |
| 6 | funds for capital improvement projects at the institutions. | | |

*264 - Higher Education Policy Commission –
 System –
 Tuition Fee Capital Improvement Fund
 (Capital Improvement and Bond Retirement Fund)
 Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2015 Org 0442

- | | | | |
|---|---|----|------------|
| 1 | Debt Service..... 04000 | \$ | 28,909,741 |
| 2 | General Capital Expenditures. 30600 | | 3,000,000 |
| 3 | Facilities Planning and | | |
| 4 | Administration..... 38600 | | 421,082 |
| 5 | Total..... | \$ | 32,330,823 |

- 6 The total amount of these appropriations shall be paid from
 7 the special capital improvement fund created in W.Va. Code

8 §18B-10-8. Projects are to be paid on a cash basis and made
9 available on July 1.

10 The above appropriations, except for debt service, may be
11 transferred to special revenue funds for capital improvement
12 projects at the institutions.

265 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2015 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay (fund 4906, appropriation 51100) at the close of
3 the fiscal year 2014 is hereby reappropriated for expenditure
4 during the fiscal year 2015.

5 The appropriation shall be paid from available unexpended
6 cash balances and interest earnings accruing to the fund. The
7 appropriation shall be expended at the discretion of the Higher
8 Education Policy Commission and the funds may be allocated to
9 any institution within the system.

10 The total amount of this appropriation shall be paid from the
11 unexpended proceeds of revenue bonds previously issued
12 pursuant to W.Va. Code §18-12B-8, which have since been
13 refunded.

*266 - Community and Technical College
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2015 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Improvements – Total (fund 4908, appropriation 95800)

3 at the close of fiscal year 2014 is hereby reappropriated for
4 expenditure during the fiscal year 2015.

5 The total amount of this appropriation shall be paid from the
6 sale of the 2009 Series A Community and Technical College
7 Capital Improvement Revenue Bonds and anticipated interest
8 earnings.

*267 - West Virginia University –
West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2015 Org 0463

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,274,340
3	Current Expenses.	13000	4,524,300
4	Repairs and Alterations.	06400	425,000
5	Equipment.	07000	512,000
6	Buildings.	25800	150,000
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 15,935,640

MISCELLANEOUS BOARDS AND COMMISSIONS

268 - Board of Barbers and Cosmetologists

(WV Code Chapters 16 and 30)

Fund 5425 FY 2015 Org 0505

1	Personal Services and Employee		
2	Benefits.	00100	\$ 504,497
3	Current Expenses.	13000	<u>239,969</u>
4	Total.		\$ 744,466

5 The total amount of these appropriations shall be paid from
6 a special revenue fund out of collections made by the board of
7 barbers and cosmetologists as provided by law.

269 - Hospital Finance Authority

(WV Code Chapter 16)

Fund 5475 FY 2015 Org 0509

1	Personal Services and Employee		
2	Benefits.	00100	\$ 72,682
3	Unclassified....	09900	1,450
4	Current Expenses.	13000	<u>71,039</u>
5	Total.....		\$ 145,171

6 The total amount of these appropriations shall be paid from
 7 the special revenue fund out of fees and collections as provided
 8 by Article 29A, Chapter 16 of the Code.

270 - WV State Board of Examiners for Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2015 Org 0906

1	Personal Services and Employee		
2	Benefits.	00100	\$ 428,521
3	Current Expenses.	13000	<u>54,936</u>
4	Total.....		\$ 483,457

271 - WV Board of Examiners for Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2015 Org 0907

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,085,917
3	Current Expenses.	13000	291,641
4	Repairs and Alterations.	06400	3,000
5	Equipment.	07000	19,500

Fund 8624 FY 2015 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 284,198
3	Unclassified.	09900	3,851
4	Current Expenses.	13000	93,115
5	Repairs and Alterations.	06400	4,000
6	Total.....		\$ 385,164

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of receipts collected for or by the
9 public service commission pursuant to and in the exercise of
10 regulatory authority over pipeline companies as provided by law.

*274 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2015 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,243,526
3	Unclassified.	09900	29,233
4	Current Expenses.	13000	577,557
5	Repairs and Alterations.	06400	23,000
6	Equipment.	07000	50,000
7	Total.....		\$ 2,923,316

8 The total amount of these appropriations shall be paid from
9 a special revenue fund out of receipts collected for or by the
10 public service commission pursuant to and in the exercise of
11 regulatory authority over motor carriers as provided by law.

*275 - Public Service Commission –
Consumer Advocate*

(WV Code Chapter 24)

Fund 8627 FY 2015 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 743,372
3	Current Expenses.	13000	276,472
4	Equipment.	07000	10,000
5	BRIM Premium.	91300	<u>4,532</u>
6	Total.		\$ 1,034,376

7 The total amount of these appropriations shall be paid from
 8 a special revenue fund out of collections made by the public
 9 service commission.

276 - Real Estate Commission

(WV Code Chapter 30)

Fund 8635 FY 2015 Org 0927

1	Personal Services and Employee		
2	Benefits.	00100	\$ 582,413
3	Current Expenses.	13000	285,622
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	<u>10,000</u>
6	Total.		\$ 883,035

7 The total amount of these appropriations shall be paid out of
 8 collections of license fees as provided by law.

*277 - WV Board of Examiners for Speech-Language
 Pathology and Audiology*

(WV Code Chapter 30)

Fund 8646 FY 2015 Org 0930

1	Personal Services and Employee		
2	Benefits.	00100	\$ 73,756

226

APPROPRIATIONS

[Ch. 13

3	Current Expenses.....	13000		<u>65,057</u>
4	Total.....		\$	138,813

278 - WV Board of Respiratory Care

(WV Code Chapter 30)

Fund 8676 FY 2015 Org 0935

1	Personal Services and Employee			
2	Benefits.....	00100	\$	78,820
3	Current Expenses.....	13000		51,750
4	Repairs and Alterations.....	06400		<u>400</u>
5	Total.....		\$	130,970

279 - WV Board of Licensed Dietitians

(WV Code Chapter 30)

Fund 8680 FY 2015 Org 0936

1	Personal Services and Employee			
2	Benefits.....	00100	\$	8,648
3	Current Expenses.....	13000		<u>14,352</u>
4	Total.....		\$	23,000

280 - Massage Therapy Licensure Board

(WV Code Chapter 30)

Fund 8671 FY 2015 Org 0938

1	Personal Services and Employee			
2	Benefits.....	00100	\$	102,338
3	Current Expenses.....	13000		<u>24,668</u>
4	Total.....		\$	127,006

281 - Board of Medicine

(WV Code Chapter 30)

Fund 9070 FY 2015 Org 0945

1	Personal Services and Employee		
2	Benefits.	00100	\$ 983,753
3	Current Expenses.	13000	832,788
4	Repairs and Alterations.	06400	<u>15,000</u>
5	Total.		\$ 1,831,541

*282 - West Virginia Enterprise Resource Planning Board
Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2015 Org 0947

1	Personal Services and Employee		
2	Benefits.	00100	\$ 6,713,066
3	Unclassified.	09900	430,000
4	Current Expenses.	13000	42,306,934
5	Repairs and Alterations.	06400	100,000
6	Equipment.	07000	250,000
7	Buildings.	25800	100,000
8	Other Assets.	69000	<u>100,000</u>
9	Total.		\$ 50,000,000

283 - Board of Treasury Investments

(WV Code Chapter 12)

Fund 9152 FY 2015 Org 0950

1	Personal Services and Employee		
2	Benefits.	00100	\$ 716,150
3	Unclassified.	09900	12,667
4	Current Expenses.	13000	478,390
5	BRIM Premium.	91300	<u>59,500</u>
6	Total.		\$ 1,266,707

7 There is hereby appropriated from this fund, in addition to
 8 the above appropriation, the amount of funds necessary for the
 9 Board of Treasury Investments to pay the fees and expenses of
 10 custodians, fund advisors and fund managers for the
 11 Consolidated fund of the State as provided in Article 6C,
 12 Chapter 12 of the Code.

13 The total amount of these appropriations shall be paid from
 14 the special revenue fund out of fees and collections as provided
 15 by law.

16 Total TITLE II, Section 3 —

17 Other Funds

18 (Including claims against the state). . . \$ 1,849,353,575

1 **Sec. 4. Appropriations from lottery net profits.** — Net
 2 profits of the lottery are to be deposited by the director of the
 3 lottery to the following accounts in the amounts indicated. The
 4 director of the lottery shall prorate each deposit of net profits in
 5 the proportion the appropriation for each account bears to the
 6 total of the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund
 8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the
 9 director of the lottery shall make available from the remaining
 10 net profits of the lottery any amounts needed to pay debt service
 11 for which an appropriation is made for Fund 9065, Fund 4297,
 12 Fund 9067, and Fund 3514 and is authorized to transfer any such
 13 amounts to Fund 9065, Fund 4297, Fund 9067, and Fund 3514
 14 for that purpose. Upon receipt of reimbursement of amounts so
 15 transferred, the director of the lottery shall deposit the
 16 reimbursement amounts to the following accounts as required by
 17 this section.

*284 - Education, Arts, Sciences and Tourism –
 Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2015 Org 0211

	Appropriation	Lottery Funds
1 Debt Service – Total.	31000	\$ 10,000,000

*285 - West Virginia Development Office –
Division of Tourism*

(WV Code Chapter 5B)

Fund 3067 FY 2015 Org 0304

1 Tourism – Telemarketing Center.	46300	\$ 82,080
2 WV Film Office.	49800	341,177
3 Tourism – Advertising (R).	61800	3,571,419
4 Tourism – Operations (R).	66200	<u>4,065,166</u>
5 Total.		\$ 8,059,842

6 Any unexpended balances remaining in the appropriations
 7 for Tourism – Advertising (fund 3067, appropriation 61800), and
 8 Tourism – Operations (fund 3067, appropriation 66200) at the
 9 close of the fiscal year 2014 are hereby reappropriated for
 10 expenditure during the fiscal year 2015.

286 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2015 Org 0310

1 Personal Services and Employee		
2 Benefits.	00100	\$ 2,140,793
3 Current Expenses.	13000	47,127
4 Pricketts Fort State Park.	32400	111,000
5 Non-Game Wildlife (R).	52700	389,993
6 State Parks and Recreation		
7 Advertising (R).	61900	<u>507,578</u>
8 Total.		\$ 3,196,491

9 Any unexpended balances remaining in the appropriations
 10 for Unclassified (fund 3267, appropriation 09900), Capital
 11 Outlay – Parks (fund 3267, appropriation 28800), Non-Game
 12 Wildlife (fund 3267, appropriation 52700), and State Parks and
 13 Recreation Advertising (fund 3267, appropriation 61900) at the
 14 close of the fiscal year 2014 are hereby reappropriated for
 15 expenditure during the fiscal year 2015.

287 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2015 Org 0402

1	Current Expenses.....	13000	\$	*1,269,375
2	FBI Checks.....	37200		109,596
3	Vocational Education Equipment			
4	Replacement.....	39300		800,000
5	Assessment Program (R).....	39600		3,224,946
6	21st Century Technology			
7	Infrastructure Network Tools and			
8	Support (R).....	93300		<u>14,228,835</u>
9	Total.....		\$	22,017,127

10 Any unexpended balances remaining in the appropriations
 11 for Unclassified (fund 3951, appropriation 09900), Current
 12 Expenses (fund 3951, appropriation 13000), Assessment
 13 Program (fund 3951, appropriation 39600), and 21st Century
 14 Technology Infrastructure Network Tools and Support (fund
 15 3951, appropriation 93300) at the close of the fiscal year 2014
 16 are hereby reappropriated for expenditure during the fiscal year
 17 2015.

* **CLERK’S NOTE:** The Governor reduced the amount in Item 287, line 1 from \$3,653,750 to \$1,269,375. The total does NOT reflect the reduction made by the Governor.

288 - *State Department of Education –
School Building Authority –
Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2015 Org 0402

1 Debt Service – Total. 31000 \$ 18,000,000

289 - *Department of Education and the Arts –
Office of the Secretary –
Control Account –
Lottery Education Fund*

(WV Code Chapter 5F)

Fund 3508 FY 2015 Org 0431

1	Unclassified (R).	09900	\$	17,000
2	Current Expenses.	13000		103,000
3	Commission for National and			
4	Community Service.	19300		406,625
5	Governor’s Honors Academy (R). .	47800		400,000
6	Arts Programs (R).	50000		81,277
7	College Readiness.	57900		185,083
8	Statewide STEM 21 st Century			
9	Academy.	89700		130,000
10	Literacy Project (R).	89900		<u>350,000</u>
11	Total.		\$	1,672,985

12 Any unexpended balances remaining in the appropriations
 13 for Unclassified (fund 3508, appropriation 09900), Governor’s
 14 Honors Academy (fund 3508, appropriation 47800), Arts
 15 Programs (fund 3508, appropriation 50000), and Literacy Project
 16 (fund 3508, appropriation 89900) at the close of fiscal year 2014
 17 are hereby reappropriated for expenditure during the fiscal year
 18 2015.

*290 - Division of Culture and History –
Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2015 Org 0432

1	Huntington Symphony.....	02700	\$	82,025
2	Preservation West Virginia.	09200		652,799
3	Fairs and Festivals (R).....	12200		1,853,663
4	Archeological Curation/Capital			
5	Improvements (R).....	24600		41,820
6	Historic Preservation Grants (R)...	31100		369,581
7	West Virginia Public Theater.....	31200		166,693
8	George Tyler Moore Center for the			
9	Study of the Civil War.....	39700		51,932
10	Greenbrier Valley Theater.....	42300		138,254
11	Theater Arts of West Virginia.....	46400		125,000
12	Marshall Artists Series.....	51800		50,008
13	Grants for Competitive Arts			
14	Program (R).....	62400		731,000
15	West Virginia State Fair.....	65700		43,391
16	Save the Music.....	68000		30,000
17	Contemporary American			
18	Theater Festival.....	81100		79,558
19	Independence Hall.....	81200		37,885
20	Mountain State Forest Festival. ...	86400		53,038
21	WV Symphony.....	90700		82,025
22	Wheeling Symphony.....	90800		82,025
23	Appalachian Children's Chorus....	91600		<u>75,770</u>
24	Total.....		\$	4,746,467

25 Any unexpended balances remaining in the appropriations
 26 for Preservation West Virginia (fund 3534, appropriation
 27 09200), Fairs and Festivals (fund 3534, appropriation 12200),
 28 Archeological Curation/Capital Improvements (fund 3534,
 29 appropriation 24600), Historic Preservation Grants (fund 3534,
 30 appropriation 31100), Grants for Competitive Arts Program

31 (fund 3534, appropriation 62400), and Project ACCESS (fund
32 3534, appropriation 86500) at the close of the fiscal year 2014
33 are hereby reappropriated for expenditure during the fiscal year
34 2015.

35 From the above appropriation for Preservation West Virginia
36 (fund 3534, appropriation 09200) funding shall be provided to
37 the African-American Heritage Family Tree Museum (Fayette)
38 \$3,713, Aracoma Story (Logan) \$41,254, Arts Monongahela
39 (Monongalia) \$16,502, Barbour County Arts and Humanities
40 Council \$1,238, Beckley Main Street (Raleigh) \$4,125, Belle
41 Boyd House (Berkeley) \$1,650, Buffalo Creek Memorial
42 (Logan) \$4,125, Carnegie Hall (Greenbrier) \$65,138, Ceredo
43 Historical Society (Wayne) \$1,650, Ceredo Kenova Railroad
44 Museum (Wayne) \$1,650, Children's Theatre of Charleston
45 (Kanawha) \$4,343, Chuck Mathena Center (Mercer) \$86,850,
46 Collis P. Huntington Railroad Historical Society (Cabell) \$8,251,
47 Country Music Hall of Fame and Museum (Marion) \$5,776,
48 First Stage Children's Theater Company \$1,650, Flannigan
49 Murrell House (Summers) \$8,251, Fort Ashby Fort (Mineral)
50 \$1,238, Fort New Salem (Harrison) \$3,053, Fort Randolph
51 (Mason) \$4,125, General Adam Stephen Memorial Foundation
52 (Berkeley) \$15,286, Grafton Mother's Day Shrine Committee
53 (Taylor) \$7,013, Hardy County Tour and Crafts Association
54 \$16,502, Heritage Craft Center of the Eastern Panhandle
55 (Berkeley) \$5,776, Heritage Farm Museum & Village (Cabell)
56 \$41,254, Historic Fayette Theater (Fayette) \$4,538, Historic
57 Middleway Conservancy (Jefferson) \$825, Jefferson County
58 Black History Preservation Society \$4,125, Jefferson County
59 Historical Landmark Commission \$6,601, Maddie Carroll House
60 (Cabell) \$6,188, Marshall County Historical Society \$7,013,
61 McCoy Theater (Hardy) \$16,502, Morgantown Theater
62 Company (Monongalia) \$16,502, Mountaineer Boys' State
63 (Lewis) \$8,251, Nicholas Old Main Foundation (Nicholas)
64 \$1,650, Norman Dillon Farm Museum (Berkeley) \$8,251, Old
65 Opera House Theater Company (Jefferson) \$12,376, Parkersburg
66 Arts Center (Wood) \$16,502, Pocahontas Historic Opera House

67 \$4,950, Raleigh County All Wars Museum \$8,251,
 68 Rhododendron Girl's State (Ohio) \$8,251, Roane County 4-H
 69 and FFA Youth Livestock Program \$4,125, Scottish Heritage
 70 Society/N. Central WV (Harrison) \$4,125, Society for the
 71 Preservation of McGrew House (Preston) \$2,888, Southern WV
 72 Veterans' Museum \$3,713, Summers County Historic Landmark
 73 Commission \$4,125, Those Who Served War Museum (Mercer)
 74 \$3,300, Three Rivers Avian Center (Summers) \$12,376, Tug
 75 Valley Arts Council (Mingo) \$4,125, Tug Valley Chamber of
 76 Commerce Coal House (Mingo) \$1,650, Tunnelton Historical
 77 Society (Preston) \$1,650, Veterans Committee for Civic
 78 Improvement of Huntington (Wayne) \$4,125, West Virginia
 79 Museum of Glass (Lewis) \$4,125, West Virginia Music Hall of
 80 Fame (Kanawha) \$28,878, YMCA Camp Horseshoe (Tucker)
 81 \$82,508, Youth Museum of Southern WV (Raleigh) \$9,901.

82 From the above appropriation for Fairs and Festivals (fund
 83 3534, appropriation 12200) funding shall be provided to the
 84 African-American Cultural Heritage Festival (Jefferson) \$4,125,
 85 Alderson 4th of July Celebration (Greenbrier) \$4,125, Allegheny
 86 Echo (Pocahontas) \$6,189, Alpine Festival/Leaf Peepers Festival
 87 (Tucker) \$9,282, American Civil War (Grant) \$4,343, American
 88 Legion Post 8 Veterans Day Parade (McDowell) \$1,737, Angus
 89 Beef and Cattle Show (Lewis) \$1,238, Annual Don Redman
 90 Heritage Concert & Awards (Jefferson) \$1,303, Annual Ruddle
 91 Park Jamboree (Pendleton) \$6,514, Antique Market Fair (Lewis)
 92 \$1,650, Appalachian Autumn Fest (Gilmer) \$3,325, Apollo
 93 Theater-Summer Program (Berkeley) \$1,650, Apple Butter
 94 Festival (Morgan) \$4,950, Arkansas Homemaker's Heritage
 95 Weekend (Hardy) \$2,888, Armed Forces Day-South Charleston
 96 (Kanawha) \$2,475, Arthurdale Heritage New Deal Festival
 97 (Preston) \$4,125, Athens Town Fair (Mercer) \$1,650, Augusta
 98 Fair (Randolph) \$4,125, Autumn Harvest Fest (Monroe) \$1,900,
 99 Barbour County Fair \$20,627, Barboursville Octoberfest
 100 (Cabell) \$4,125, Bass Festival (Pleasants) \$1,527, Battelle
 101 District Fair (Monongalia) \$4,125, Battle of Dry Creek
 102 (Greenbrier) \$1,238, Battle of Lewisburg Civil War Days

103 (Greenbrier) \$2,475, Battle of Point Pleasant Memorial
104 Committee (Mason) \$4,125, Belle Town Fair (Kanawha) \$3,713,
105 Belleville Homecoming (Wood) \$16,502, Bergoo Down Home
106 Days (Webster) \$2,063, Berkeley County Youth Fair \$15,264,
107 Black Bear 4K Mountain Bike Race (Kanawha) \$950, Black
108 Heritage Festival (Harrison) \$4,950, Black Walnut Festival
109 (Roane) \$8,251, Blue-Gray Reunion (Barbour) \$2,888, Boone
110 County Fair \$8,251, Boone County Labor Day Celebration
111 \$3,300, Bradshaw Fall Festival (McDowell) \$1,650,
112 Brandonville Heritage Day (Preston) \$1,455, Braxton County
113 Fair \$9,489, Braxton County Monster Fest / WV Autumn
114 Festival \$2,063, Brooke County Fair \$2,888, Bruceton Mills
115 Good Neighbor Days (Preston) \$1,650, Buckwheat Festival
116 (Preston) \$7,014, Buffalo 4th of July Celebration (Putnam) \$475,
117 Burlington Apple Harvest Festival (Mineral) \$24,752,
118 Burlington Pumpkin Harvest Festival (Raleigh) \$4,125,
119 Burnsville Harvest Festival (Braxton) \$1,954, Cabell County
120 Fair \$8,251, Calhoun County Wood Festival \$1,650, Campbell's
121 Creek Community Fair (Kanawha) \$2,063, Cape Coalwood
122 Festival Association (McDowell) \$2,063, Capon Bridge
123 Founders Day Festival (Hampshire) \$1,650, Capon Springs
124 Ruritan 4th of July (Hampshire) \$950, Cass Homecoming
125 (Pocahontas) \$1,650, Cedarville Town Festival (Gilmer) \$950,
126 Celebration in the Park (Wood) \$3,300, Celebration of America
127 (Monongalia) \$4,950, Ceredo Freedom Festival (Wayne) \$973,
128 Chapmanville Apple Butter Festival (Logan) \$950,
129 Chapmanville Fire Department 4th of July (Logan) \$2,475,
130 Charles Town Christmas Festival (Jefferson) \$4,125, Charles
131 Town Heritage Festival (Jefferson) \$4,125, Charlie West Blues
132 Festival (Kanawha) \$8,251, Cherry River Festival (Nicholas)
133 \$5,363, Chester Fireworks (Hancock) \$1,238, Chester Fourth of
134 July Festivities (Hancock) \$4,125, Chief Logan State Park-Civil
135 War Celebration (Logan) \$6,601, Chilifest WV State Chili
136 Championship (Cabell) \$2,171, Christmas In Our Town
137 (Marion) \$4,343, Christmas in Shepherdstown (Jefferson)
138 \$3,300, Christmas in the Park (Brooke) \$4,125, Christmas in the

139 Park (Logan) \$20,627, City of Dunbar Critter Dinner (Kanawha)
140 \$8,251, City of New Martinsville Festival of Memories (Wetzel)
141 \$9,076, City of Pleasant Valley Celebration (Marion) \$2,063,
142 Civil War Horse Calvary Race (Barbour) \$950, Clay County
143 Golden Delicious Apple Festival \$5,776, Coal Field Jamboree
144 (Logan) \$28,878, Coalton Days Fair (Randolph) \$5,776, Country
145 Roads Festival (Fayette) \$1,650, Cowen Railroad Festival
146 (Webster) \$2,888, Craigsville Fall Festival (Nicholas) \$2,888,
147 Culturefest World Music & Arts Festival (Mercer) \$6,514,
148 Delbarton Homecoming (Mingo) \$2,888, Doddridge County Fair
149 \$5,776, Durbin Days (Pocahontas) \$4,125, Eastern Kanawha
150 Valley Homecoming Festival (Kanawha) \$2,171, Elbert/Filbert
151 Reunion Festival (McDowell) \$1,238, Elizabethtown Festival
152 (Marshall) \$4,125, Elkins Randolph County 4th of July Car
153 Show (Randolph) \$1,650, Fairview 4th of July Celebration
154 (Marion) \$950, Farm Safety Day (Preston) \$1,650, Farmer Day
155 Festival (Monroe) \$1,737, Farmers' Day Parade (Wyoming)
156 \$1,000, Fayette American Legion 4th of July (Fayette) \$917,
157 FestivALL Charleston (Kanawha) \$16,502, Fiber Festival
158 (Preston) \$1,500, Flatwood Days (Braxton) \$973, Flemington
159 Day Fair and Festival (Taylor) \$2,888, Follansbee Community
160 Days (Brooke) \$6,807, Fort Gay Mountain Heritage Days
161 (Wayne) \$4,125, Fort Henry Days (Ohio) \$4,373, Fort Henry
162 Living History (Ohio) \$2,171, Fort New Salem Spirit of
163 Christmas Festival (Harrison) \$3,378, Frankford Autumnfest
164 (Greenbrier) \$4,125, Franklin Fishing Derby (Pendleton) \$6,189,
165 Franklin's Fireman Carnival (Pendleton) \$4,125, Freshwater
166 Folk Festival (Greenbrier) \$4,125, Friends Auxiliary of W.R.
167 Sharpe Hospital (Lewis) \$4,125, Frontier Days (Harrison)
168 \$2,475, Frontier Fest/Canaan Valley (Taylor) \$4,125, Fund for
169 the Arts-Wine & All that Jazz Festival (Kanawha) \$2,063,
170 Gassaway Days Celebration (Braxton) \$4,125, Gilbert
171 Elementary Fall Blast (Mingo) \$2,171, Gilbert Kiwanis Harvest
172 Festival (Mingo) \$3,300, Gilbert Spring Fling (Mingo) \$4,125,
173 Gilmer County Farm Show \$3,300, Grant County Arts Council
174 \$1,650, Grape Stomping Wine Festival (Nicholas) \$1,650, Great

175 Greenbrier River Race (Pocahontas) \$8,251, Greater Quinwood
176 Days (Greenbrier) \$1,086, Green Spring Days (Hampshire)
177 \$950, Guyandotte Civil War Days (Cabell) \$8,251, Hamlin 4th
178 of July Celebration (Lincoln) \$4,125, Hampshire Civil War
179 Celebration Days (Hampshire) \$950, Hampshire County 4th of
180 July Celebration \$16,502, Hampshire County Fair \$6,948,
181 Hampshire Heritage Days (Hampshire) \$3,300, Hancock County
182 Oldtime Fair \$4,125, Hardy County Commission - 4th of July
183 \$8,251, Hatfield McCoy Matewan Reunion Festival (Mingo)
184 \$17,125, Hatfield McCoy Trail National ATV and Dirt Bike
185 Weekend (Wyoming) \$4,125, Heat'n the Hills Chilifest
186 (Lincoln) \$3,474, Heritage Craft Festival (Monroe) \$950,
187 Heritage Days Festival (Roane) \$1,238, Hicks Festival (Tucker)
188 \$950, Hilltop Festival (Cabell) \$950, Hilltop Festival of Lights
189 (McDowell) \$1,650, Hinton Railroad Days (Summers) \$4,538,
190 Holly River Festival (Webster) \$1,238, Hometown Mountain
191 Heritage Festival (Fayette) \$3,378, Hundred 4th of July (Wetzel)
192 \$5,982, Hundred American Legion Earl Kiger Post Bluegrass
193 Festival (Wetzel) \$1,650, Hurricane 4th of July Celebration
194 (Putnam) \$4,125, Iaeger Lions Club Annual Golf Show
195 (McDowell) \$1,238, Iaeger Town Fair (McDowell) \$1,238, Irish
196 Heritage Festival of WV (Raleigh) \$4,125, Irish Spring Festival
197 (Lewis) \$950, Italian Heritage Festival-Clarksburg (Harrison)
198 \$24,752, Jackson County Fair \$4,125, Jacksonburg Homecoming
199 Festival (Wetzel) \$950, Jamboree (Pocahontas) \$4,125, Jane
200 Lew Arts and Crafts Fair (Lewis) \$950, Jefferson County Fair
201 Association \$20,627, Jersey Mountain Ruritan Pioneer Days
202 (Hampshire) \$950, John Henry Days Festival (Monroe) \$4,125,
203 Johnnie Johnson Blues and Jazz Festival (Marion) \$4,125,
204 Johnstown Community Fair (Harrison) \$2,063, Junior Heifer
205 Preview Show (Lewis) \$1,650, Kanawha Coal Riverfest-St.
206 Albans 4th of July Festival (Kanawha) \$4,125, Kanawha County
207 Fair \$4,125, Keeper of the Mountains-Kayford (Kanawha)
208 \$2,063, Kenova Autumn Festival (Wayne) \$6,080, Kermit Fall
209 Festival (Mingo) \$2,475, Keystone Reunion Gala (McDowell)
210 \$2,171, King Coal Festival (Mingo) \$4,125, Kingwood

211 Downtown Street Fair and Heritage Days (Preston) \$1,650, L.Z.
212 Rainelle WV Veterans Reunion (Greenbrier) \$4,125, Lady of
213 Agriculture (Preston) \$950, Larry Joe Harless Center Octoberfest
214 Hatfield McCoy Trail (Mingo) \$8,251, Larry Joe Harless
215 Community Center Spring Middle School Event (Mingo)
216 \$4,125, Last Blast of Summer (McDowell) \$4,125, Lewis
217 County Fair Association \$2,888, Lewisburg Shanghai
218 (Greenbrier) \$1,650, Lincoln County Fall Festival \$6,601,
219 Lincoln County Winterfest \$4,125, Little Birch Days Celebration
220 (Braxton) \$475, Little Levels Heritage Festival (Pocahontas)
221 \$1,650, Logan Freedom Festival \$6,189, Lost Creek Community
222 Festival (Harrison) \$5,776, Main Street Arts Festival (Upshur)
223 \$4,343, Main Street Martinsburg Chocolate Fest and Book Fair
224 (Berkeley) \$3,908, Mannington District Fair (Marion) \$4,950,
225 Maple Syrup Festival (Randolph) \$950, Marion County FFA
226 Farm Fest \$2,063, Marmet Labor Day Celebration (Kanawha)
227 \$4,275, Marshall County Antique Power Show \$2,063, Marshall
228 County Fair \$6,189, Mason County Fair \$4,125, Mason Dixon
229 Festival (Monongalia) \$5,776, Matewan Massacre Reenactment
230 (Mingo) \$6,950, Matewan-Magnolia Fair (Mingo) \$22,128,
231 McARTS-McDowell County \$16,502, McDowell County Fair
232 \$2,063, McGrew House History Day (Preston) \$1,650,
233 McNeill's Rangers (Mineral) \$6,601, Meadow Bridge
234 Hometown Festival (Fayette) \$1,032, Meadow River Days
235 Festival (Greenbrier) \$2,475, Mercer Bluestone Valley Fair
236 (Mercer) \$1,650, Mercer County Fair \$1,650, Mid Ohio Valley
237 Antique Engine Festival (Wood) \$2,475, Milton Christmas in the
238 Park (Cabell) \$2,063, Milton Fourth of July Celebration (Cabell)
239 \$2,063, Mineral County Fair \$1,444, Mineral County Veterans
240 Day Parade \$1,238, Molasses Festival (Calhoun) \$1,650,
241 Monongahfest (Marion) \$5,211, Moon Over Mountwood Fishing
242 Festival (Wood) \$2,475, Morgan County Fair-History Wagon
243 \$1,238, Moundsville Bass Festival (Marshall) \$3,300,
244 Moundsville July 4th Celebration (Marshall) \$4,125, Mount
245 Liberty Fall Festival (Barbour) \$2,063, Mountain Fest
246 (Monongalia) \$16,502, Mountain Festival (Mercer) \$3,816,

247 Mountain Heritage Arts and Crafts Festival (Jefferson) \$4,125,
248 Mountain Music Festival (McDowell) \$2,063, Mountain State
249 Apple Harvest Festival (Berkeley) \$6,189, Mountain State Arts
250 & Crafts Fair Cedar Lakes (Jackson) \$37,128, Mountaineer Hot
251 Air Balloon Festival (Monongalia) \$3,300, Mud River Festival
252 (Lincoln) \$6,601, Mullens Dogwood Festival (Wyoming)
253 \$5,776, Multi-Cultural Festival of West Virginia (Kanawha)
254 \$16,502, New Cumberland Christmas Parade (Hancock) \$2,475,
255 New Cumberland Fourth of July Fireworks (Hancock) \$4,125,
256 New River Bridge Day Festival (Fayette) \$33,003, Newburg
257 Volunteer Fireman's Field Day (Preston) \$950, Nicholas County
258 Fair \$4,125, Nicholas County Potato Festival \$2,888, North
259 River Valley Festival (Hampshire) \$950, Northern Preston Mule
260 Pull and Farmers Days (Preston) \$3,300, Oak Leaf Festival
261 (Fayette) \$8,685, Oceana Heritage Festival (Wyoming) \$4,950,
262 Oglebay City Park - Festival of Lights (Ohio) \$66,006, Oglebay
263 Festival (Ohio) \$8,251, Ohio County Country Fair \$7,426, Ohio
264 Valley Beef Association (Wood) \$2,063, Ohio Valley Black
265 Heritage Festival (Ohio) \$4,538, Old Central City Fair (Cabell)
266 \$4,125, Old Century City Fair (Barbour) \$1,737, Old Tyme
267 Christmas (Jefferson) \$1,980, Paden City Labor Day Festival
268 (Wetzel) \$5,363, Parkersburg Homecoming (Wood) \$12,159,
269 Patty Fest (Monongalia) \$1,650, Paw Paw District Fair (Marion)
270 \$2,888, Pax Reunion Committee (Fayette) \$4,125, Pendleton
271 County 4-H Weekend \$1,650, Pendleton County Committee for
272 Arts \$12,376, Pendleton County Fair \$8,685, Pennsboro Country
273 Road Festival (Ritchie) \$1,650, Petersburg Fourth of July
274 Celebration (Grant) \$16,502, Petersburg HS Celebration (Grant)
275 \$8,251, Piedmont-Annual Back Street Festival (Mineral) \$3,300,
276 Pinch Reunion (Kanawha) \$1,238, Pine Bluff Fall Festival
277 (Harrison) \$3,300, Pine Grove 4th of July Festival (Wetzel)
278 \$5,776, Pineville Festival (Wyoming) \$4,950, Pleasants County
279 Agriculture Youth Fair \$4,125, Poca Heritage Days (Putnam)
280 \$2,475, Pocahontas County Pioneer Days \$5,776, Point Pleasant
281 Stern Wheel Regatta (Mason) \$4,125, Potomac Highlands Maple
282 Festival (Grant) \$4,950, Pratt Fall Festival (Kanawha) \$2,063,

283 Princeton Autumnfest (Mercer) \$2,171, Princeton Street Fair
284 (Mercer) \$4,125, Putnam County Fair \$4,125, Quartets on
285 Parade (Hardy) \$3,300, Rainelle Fall Festival (Greenbrier)
286 \$4,343, Rand Community Center Festival (Kanawha) \$2,063,
287 Randolph County Community Arts Council \$2,475, Randolph
288 County Fair \$5,776, Randolph County Ramp and Rails \$1,650,
289 Ranson Christmas Festival (Jefferson) \$4,125, Ranson Festival
290 (Jefferson) \$4,125, Ravenswood Octoberfest (Jackson) \$6,601,
291 Renick Liberty Festival (Greenbrier) \$950, Ripley 4th of July
292 (Jackson) \$12,376, Ritchie County Fair and Exposition \$4,125,
293 Ritchie County Pioneer Days \$950, River City Festival (Preston)
294 \$950, Riverfest (Marion) \$1,650, Riverside Blues Festival
295 (Randolph) \$4,343, Roane County Agriculture Field Day \$2,475,
296 Rocket Boys Festival (Raleigh) \$2,375, Romney Heritage Days
297 (Hampshire) \$2,606, Ronceverte River Festival (Greenbrier)
298 \$4,125, Rotary International Day in the Park (Harrison) \$900,
299 Rowlesburg Labor Day Festival (Preston) \$950, Rupert Country
300 Fling (Greenbrier) \$2,475, Saint Spyridon Greek Festival
301 (Harrison) \$2,063, Salem Apple Butter Festival (Harrison)
302 \$3,300, Sistersville 4th of July Fireworks (Wetzel) \$4,538,
303 Skirmish on the River (Mingo) \$1,737, Smoke on the Water
304 (Wetzel) \$2,475, South Charleston Summerfest (Kanawha)
305 \$8,251, Southern Wayne County Fall Festival \$950, Spirit of
306 Grafton Celebration (Taylor) \$8,251, Spring Mountain Festival
307 (Grant) \$3,300, Springfield Peach Festival (Hampshire) \$1,026,
308 St. Albans City of Lights - December (Kanawha) \$4,125, St.
309 Albans Town Fair and Carnival (Kanawha) \$8,685, Sternwheel
310 Festival (Wood) \$2,475, Stoco Reunion (Raleigh) \$2,063,
311 Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis)
312 \$9,076, Storytelling Festival (Lewis) \$475, Strawberry Festival
313 (Upshur) \$24,752, Tacy Fair (Barbour) \$950, Taste of
314 Parkersburg (Wood) \$4,125, Taylor County Fair \$4,538, Terra
315 Alta VFD 4th of July Celebration (Preston) \$950, The Gathering
316 at Sweet Creek (Wood) \$2,475, Three Rivers Coal Festival
317 (Marion) \$6,394, Thunder on the Tygart - Mothers' Day
318 Celebration (Taylor) \$12,376, Town of Delbarton 4th of July

319 Celebration (Mingo) \$2,475, Town of Fayetteville Heritage
320 Festival (Fayette) \$6,189, Town of Hendricks Homecoming
321 (Tucker) \$1,737, Town of Matoaka Hog Roast (Mercer) \$950,
322 Town of Rivesville 4th of July Festival (Marion) \$4,343,
323 Treasure Mountain Festival (Pendleton) \$20,627, Tri-County
324 Fair (Grant) \$31,318, Tucker County Arts Festival and
325 Celebration \$14,851, Tucker County Fair \$3,919, Tucker County
326 Health Fair \$1,650, Tunnelton Depot Days (Preston) \$950,
327 Tunnelton Volunteer Fire Department Festival (Preston) \$950,
328 Turkey Festival (Hardy) \$2,475, Tyler County Fair \$4,290, Tyler
329 County Fourth of July \$475, Tyler County OctoberFest \$1,000,
330 Union Community Irish Festival (Barbour) \$900, Uniquely West
331 Virginia Festival (Morgan) \$1,650, Upper Kanawha Valley
332 Oktoberfest (Kanawha) \$2,063, Upper Ohio Valley Italian
333 Festival (Ohio) \$9,901, Upper West Fork Park Bluegrass
334 Festival (Calhoun) \$475, Upshur County Fair \$5,776, Valley
335 District Fair (Preston) \$2,888, Veterans Welcome Home
336 Celebration (Cabell) \$1,303, Vietnam Veterans of America
337 Christmas Party (Cabell) \$950, Volcano Days at Mountwood
338 Park (Wood) \$4,125, War Homecoming Fall Festival
339 (McDowell) \$1,238, Wardensville Fall Festival (Hardy) \$4,125,
340 Wayne County Fair \$4,125, Wayne County Fall Festival \$4,125,
341 Webster County Wood Chopping Festival \$12,376, Webster
342 Wild Water Weekend \$1,650, Weirton July 4th Celebration
343 (Hancock) \$16,502, Welcome Home Family Day (Wayne)
344 \$2,640, Wellsburg 4th of July Celebration (Brooke) \$6,189,
345 Wellsburg Apple Festival of Brooke County \$4,125, West
346 Virginia Blackberry Festival (Harrison) \$4,125, West Virginia
347 Chestnut Festival (Preston) \$950, West Virginia Coal Festival
348 (Boone) \$8,251, West Virginia Coal Show (Mercer) \$2,171,
349 West Virginia Dairy Cattle Show (Lewis) \$8,251, West Virginia
350 Dandelion Festival (Greenbrier) \$4,125, West Virginia Fair and
351 Exposition (Wood) \$6,684, West Virginia Fireman's Rodeo
352 (Fayette) \$2,063, West Virginia Honey Festival (Wood) \$1,650,
353 West Virginia Oil and Gas Festival (Tyler) \$9,076, West
354 Virginia Polled Hereford Association (Braxton) \$1,238, West

355 Virginia Poultry Festival (Hardy) \$4,125, West Virginia
 356 Pumpkin Festival (Cabell) \$8,251, West Virginia State Folk
 357 Festival (Gilmer) \$4,125, West Virginia State Monarch Butterfly
 358 Festival (Brooke) \$4,125, West Virginia Water Festival - City of
 359 Hinton (Summers) \$13,201, Weston VFD 4th of July Firemen
 360 Festival (Lewis) \$1,650, Wetzel County Autumnfest \$4,538,
 361 Wetzel County Town and Country Days \$14,026, Wheeling
 362 Celtic Festival (Ohio) \$1,650, Wheeling City of Lights (Ohio)
 363 \$6,601, Wheeling Sternwheel Regatta (Ohio) \$8,251, Wheeling
 364 Vintage Raceboat Regatta (Ohio) \$16,502, Whipple Community
 365 Action (Fayette) \$2,063, Widen Days Festival (Calhoun) \$1,650,
 366 Wileyville Homecoming (Wetzel) \$3,300, Wine Festival and
 367 Mountain Music Event (Harrison) \$4,125, Winter Festival of the
 368 Waters (Berkeley) \$4,125, Wirt County Fair \$2,063, Wirt
 369 County Pioneer Days \$1,650, Youth Stockman Beef Expo
 370 (Lewis) \$1,650.

371 Any Fairs and Festivals awards shall be funded in addition
 372 to, and not in lieu of, individual grant allocations derived from
 373 the Arts Council and the Cultural Grant Program allocations.

*291 - Library Commission –
 Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2015 Org 0433

1	Books and Films.....	17900	\$	360,784
2	Services to Libraries.	18000		550,000
3	Grants to Public Libraries.	18200		9,439,571
4	Digital Resources.....	30900		219,992
5	Libraries - Special Projects (R). . . .	62500		*0
6	Infomine Network.	88400		886,517
7	Total.....		\$	12,243,114

* **CLERK’S NOTE:** The Governor reduced the amount in Item 291, line 5 from \$786,250 to \$0. The total does NOT reflect the reduction made by the Governor.

8 Any unexpended balance remaining in the appropriation for
 9 Libraries – Special Projects (fund 3559, appropriation 62500) at
 10 the close of fiscal year 2014 is hereby reappropriated for
 11 expenditure during the fiscal year 2015.

*292 - Bureau of Senior Services –
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2015 Org 0508

1	Personal Services and Employee		
2	Benefits.	00100	\$ 185,315
3	Current Expenses.	13000	345,390
4	Repairs and Alterations.	06400	1,000
5	Local Programs Service Delivery		
6	Costs.	20000	2,435,250
7	Silver Haired Legislature.	20200	18,500
8	Senior Citizen Centers and		
9	Programs (R)	46200	*1,000,000
10	Transfer to Division of Human		
11	Services for Health Care		
12	and Title XIX Waiver for		
13	Senior Citizens.	53900	17,608,768
14	Roger Tompkins Alzheimer’s		
15	Respite Care.	64300	2,296,751
16	WV Alzheimer’s Hotline.	72400	45,000
17	Regional Aged and Disabled		
18	Resource Center.	76700	425,000
19	Senior Services Medicaid Transfer.	87100	8,670,000
20	Legislative Initiatives for the		

* **CLERK’S NOTE:** The Governor reduced the amount in Item 292, line 9 from \$2,284,750 to \$1,000,000; and line 26, from \$4,520,941 to \$4,320,941. The total does NOT reflect the reduction made by the Governor.

244	APPROPRIATIONS	[Ch. 13
21	Elderly. 90400	9,671,239
22	Long Term Care Ombudsman. 90500	297,226
23	BRIM Premium. 91300	6,500
24	In-Home Services and Nutrition for	
25	Senior Citizens.. 91700	<u>*4,320,941</u>
26	Total.	\$ 48,711,630

27 Any unexpended balance remaining in the appropriation for
28 Senior Citizen Centers and Programs (fund 5405, appropriation
29 46200) at the close of the fiscal year 2014 is hereby
30 reappropriated for expenditure during the fiscal year 2015.

31 Included in the above appropriation for Current Expenses
32 (fund 5405, appropriation 13000), is funding to support an in-
33 home direct care workforce registry.

34 The above appropriation for Transfer to Division of Human
35 Services for Health Care and Title XIX Waiver for Senior
36 Citizens (appropriation 53900) along with the federal moneys
37 generated thereby shall be used for reimbursement for services
38 provided under the program.

*293 - Higher Education Policy Commission –
Lottery Education –
Higher Education Policy Commission –
Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2015 Org 0441

1	RHI Program and Site Support (R). 03600	\$ 1,939,944
2	RHI Program and Site Support –	
3	RHEP Program	
4	Administration (R).. 03700	148,758
5	RHI Program and Site Support – Grad Med	
6	Ed and Fiscal Oversight (R). . . 03800	87,045

Ch. 13]	APPROPRIATIONS	245
7	Minority Doctoral Fellowship (R).. 16600	131,464
8	Underwood–Smith Scholarship	
9	Program–Student Awards. 16700	135,849
10	Health Sciences Scholarship (R). . . 17600	220,598
11	Vice Chancellor for Health Sciences –	
12	Rural Health Residency	
13	Program (R)..... 60100	63,625
14	WV Engineering, Science, and	
15	Technology Scholarship	
16	Program. 86800	<u>452,831</u>
17	Total.....	\$ 3,180,114

18 Any unexpended balances remaining in the appropriations
19 for RHI Program and Site Support (fund 4925, appropriation
20 03600), RHI Program and Site Support – RHEP Program
21 Administration (fund 4925, appropriation 03700), RHI Program
22 and Site Support – Grad Med Ed and Fiscal Oversight (fund
23 4925, appropriation 03800), Minority Doctoral Fellowship (fund
24 4925, appropriation 16600), Health Sciences Scholarship (fund
25 4925, appropriation 17600), and Vice Chancellor for Health
26 Sciences – Rural Health Residency Program (fund 4925,
27 appropriation 60100) at the close of fiscal year 2014 are hereby
28 reappropriated for expenditure during the fiscal year 2015.

29 The above appropriation for Underwood–Smith Scholarship
30 Program–Student Awards (appropriation 16700) shall be
31 transferred to the Underwood – Smith Teacher Scholarship and
32 Loan Assistance Fund (fund 4922, org 0441) established by
33 W.Va. Code §18C-4-1.

34 The above appropriation for WV Engineering, Science, and
35 Technology Scholarship Program (appropriation 86800) shall be
36 transferred to the West Virginia Engineering, Science and
37 Technology Scholarship Fund (fund 4928, org 0441) established
38 by W.Va. Code §18C-6-1.

*294 - Community and Technical College –
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2015 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) at the close of fiscal year 2014 is hereby reappropriated for expenditure during the fiscal year 2015.

*295 - Higher Education Policy Commission –
Lottery Education –
West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2015 Org 0463

1	WVU Health Sciences –		
2	RHI Program and Site		
3	Support (R).	03500	\$ 1,141,355
4	MA Public Health Program and		
5	Health Science		
6	Technology (R).	62300	55,213
7	Health Sciences Career		
8	Opportunities Program (R). . . .	86900	333,177
9	HSTA Program (R).	87000	1,698,273
10	Center for Excellence in		
11	Disabilities (R)..	96700	<u>310,196</u>
12	Total.		\$ 3,538,214

13 Any unexpended balances remaining in the appropriations
 14 for WVU Health Sciences – RHI Program and Site Support
 15 (fund 4185, appropriation 03500), MA Public Health Program
 16 and Health Science Technology (fund 4185, appropriation
 17 62300), Health Sciences Career Opportunities Program (fund
 18 4185, appropriation 86900), HSTA Program (fund 4185,
 19 appropriation 87000), and Center for Excellence in Disabilities
 20 (fund 4185, appropriation 96700) at the close of fiscal year 2014
 21 are hereby reappropriated for expenditure during the fiscal year
 22 2015.

*296 - Higher Education Policy Commission –
 Lottery Education –
 Marshall University*

(WV Code Chapters 18B)

Fund 4267 FY 2015 Org 0471

1	Marshall University Graduate College		
2	Writing Project (R).	80700	\$ 21,911

3 Any unexpended balance remaining in the appropriation for
 4 Marshall University Graduate College Writing Project (fund
 5 4267, appropriation 80700) at the close of fiscal year 2014 is
 6 hereby reappropriated for expenditure during the fiscal year
 7 2015.

*297 - Higher Education Policy Commission –
 Lottery Education –
 Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2015 Org 0471

1	Marshall Medical School –		
2	RHI Program and Site		
3	Support (R).	03300	\$ 416,142

4	Vice Chancellor for Health Sciences –		
5	Rural Health Residency		
6	Program (R)..... 60100		<u>171,963</u>
7	Total.....	\$	<u>588,105</u>

8 Any unexpended balances remaining in the appropriations
9 for Marshall Medical School – RHI Program and Site Support
10 (fund 4896, appropriation 03300) and Vice Chancellor for
11 Health Sciences – Rural Health Residency Program (fund 4896,
12 appropriation 60100) at the close of fiscal year 2014 are hereby
13 reappropriated for expenditure during the fiscal year 2015.

14	Total TITLE II, Section 4 —		
15	Lottery Revenue.	\$	<u><u>140,976,000</u></u>

1 **Sec. 5. Appropriations from state excess lottery revenue**
2 **fund.** — In accordance with W.Va. Code §29-22-18a, the
3 following appropriations shall be deposited and disbursed by the
4 director of the lottery to the following accounts in this section in
5 the amounts indicated.

6 After first funding the appropriations required by W.Va.
7 Code §29-22-18a, the director of the lottery shall provide
8 funding from the state excess lottery revenue fund for the
9 remaining appropriations in this section to the extent that funds
10 are available. In the event that revenues to the state excess
11 lottery revenue fund are not sufficient to meet all the
12 appropriations made pursuant to this section, then the director of
13 the lottery shall first provide the necessary funds to meet Fund
14 7208, appropriation 70000 of this section; next, to provide the
15 funds necessary for Fund 3517, appropriation 77500 of this
16 section; next, to provide the funds necessary for Fund 3517,
17 appropriation 09500 of this section. Allocation of the funds for
18 each appropriation shall be allocated in succession before any
19 funds are provided for the next subsequent appropriation.

298 - Lottery Commission –
Refundable Credit

Fund 7207 FY 2015 Org 0705

	Appropriation	Excess Lottery Funds
1 Directed Transfer.	70000	\$ 10,000,000

2 The above appropriation shall be transferred to the General
3 Revenue Fund to provide reimbursement for the refundable
4 credit allowable under W.Va. Code §11-21-21. The amount of
5 the required transfer shall be determined solely by the state tax
6 commissioner and shall be completed by the director of the
7 lottery upon the commissioner’s request.

299 - Lottery Commission –
General Purpose Account

Fund 7206 FY 2015 Org 0705

1 Directed Transfer.	70000	\$ 65,000,000
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2 The above appropriation shall be transferred to the General
3 Revenue Fund as determined by the director of the lottery in
4 accordance with W.Va. Code §29-22-18a.

300 - Higher Education Policy Commission –
Education Improvement Fund

Fund 4295 FY 2015 Org 0441

1 PROMISE Scholarship – Transfer..	80000	\$ 29,000,000
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2 The above appropriation shall be transferred to the
3 PROMISE Scholarship Fund (fund 4296, org 0441) established
4 by W.Va. Code §18C-7-7.

5 The Legislature has explicitly set a finite amount of
 6 available appropriations and directed the administrators of the
 7 Program to provide for the award of scholarships within the
 8 limits of available appropriations.

*301 - Economic Development Authority –
 Economic Development Project Fund*

Fund 9065 FY 2015 Org 0944

1 Debt Service – Total. 31000 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess
 3 lottery revenues are authorized to be transferred to the lottery
 4 fund as reimbursement of amounts transferred to the economic
 5 development project fund pursuant to section four of this title
 6 and W.Va. Code §29-22-18, subsection (f).

*302 - Economic Development Authority –
 Cacapon and Beech Fork State Parks
 Lottery Revenue Debt Service Fund*

Fund 9067 FY 2015 Org 0944

1 Debt Service. 04000 \$ 0

303 - School Building Authority

Fund 3514 FY 2015 Org 0402

1 Debt Service – Total. 31000 \$ 19,000,000

304 - West Virginia Infrastructure Council

Fund 3390 FY 2015 Org 0316

1 Directed Transfer. 70000 \$ 46,000,000

2 The above appropriation shall be allocated pursuant to
 3 W.Va. Code §29-22-18d and §31-15-9.

*305 - Higher Education Policy Commission –
Higher Education Improvement Fund*

Fund 4297 FY 2015 Org 0441

1 Directed Transfer..... 70000 \$ 15,000,000

2 The above appropriation shall be transferred to fund 4903,
3 org 0442 as authorized by Senate Concurrent Resolution No. 41.

*306 - Division of Natural Resources
State Park Improvement Fund*

Fund 3277 FY 2015 Org 0310

1	Current Expenses (R).....	13000	\$	2,438,300
2	Repairs and Alterations (R).....	06400		2,161,200
3	Equipment (R).....	07000		200,000
4	Buildings (R).....	25800		100,000
5	Other Assets (R).....	69000		<u>100,500</u>
6	Total.....		\$	5,000,000

7 Any unexpended balances remaining in the above
8 appropriations for Repairs and Alterations (fund 3277,
9 appropriation 06400), Equipment (fund 3277, appropriation
10 07000), Unclassified – Total (fund 3277, appropriation 09600),
11 Unclassified (fund 3277, appropriation 09900), Current
12 Expenses (fund 3277, appropriation 13000), Buildings (fund
13 3277, appropriation 25800), and Other Assets (fund 3277,
14 appropriation 69000) at the close of the fiscal year 2014 are
15 hereby reappropriated for expenditure during the fiscal year
16 2015.

307 - Racing Commission –

Fund 7308 FY 2015 Org 0707

1	Special Breeders Compensation			
2	(WVC §29-22-18a,			
3	subsection (l)).	21800	\$	2,000,000

*308 - Lottery Commission –
Excess Lottery Revenue Fund Surplus*

Fund 7208 FY 2015 Org 0705

1 Directed Transfer. 70000 \$ 27,600,000

2 The above appropriation for Directed Transfer (fund 7208,
3 appropriation 70000) shall be transferred to the General Revenue
4 Fund.

309 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2015 Org 0100

1 Any unexpended balance remaining in the appropriation for
2 Publication of Papers and Transition Expenses – Lottery Surplus
3 (fund 1046, appropriation 06600) at the close of the fiscal year
4 2014 is hereby reappropriated for expenditure during the fiscal
5 year 2015.

310 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2015 Org 0307

1 Any unexpended balances remaining in the appropriations
2 for Unclassified – Total (fund 3170, appropriation 09600),
3 Recreational Grants or Economic Development Loans (fund
4 3170, appropriation 25300), and Connectivity Research and
5 Development – Lottery Surplus (fund 3170, appropriation
6 92300) at the close of the fiscal year 2014 are hereby
7 reappropriated for expenditure during the fiscal year 2015.

311 - State Department of Education

(WV Code Chapters 18 and 18A)

Fund 3517 FY 2015 Org 0402

1	Teachers' Retirement Savings		
2	Realized.....	09500	\$ 4,051,000
3	Retirement Systems –		
4	Unfunded Liability.	77500	<u>0</u>
5	Total.....		\$ 4,051,000

6 The above appropriation for Teachers' Retirement Savings
7 Realized (fund 3517, appropriation 09500) shall be transferred
8 to the Employee Pension and Health Care Benefit Fund (fund
9 2044).

*312 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2015 Org 0441

1 Any unexpended balance remaining in the appropriation for
2 Advanced Technology Centers (fund 4932, appropriation 02800)
3 at the close of the fiscal year 2014 is hereby reappropriated for
4 expenditure during the fiscal year 2015.

*313 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 5219 FY 2015 Org 0506

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 5219, appropriation

3 75500) at the close of the fiscal year 2014 is hereby
4 reappropriated for expenditure during the fiscal year 2015.

*314 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2015 Org 0608

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 6283, appropriation
3 75500) at the close of the fiscal year 2014 is hereby
4 reappropriated for expenditure during the fiscal year 2015.

5 Total TITLE II, Section 5 —

6 Excess Lottery Funds. \$ 241,651,000

1 **Sec. 6. Appropriations of federal funds.** — In accordance
2 with Article 11, Chapter 4 of the Code from federal funds there
3 are hereby appropriated conditionally upon the fulfillment of the
4 provisions set forth in Article 2, Chapter 11B of the Code the
5 following amounts, as itemized, for expenditure during the fiscal
6 year 2015.

LEGISLATIVE

315 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2015 Org 2300

	Appro- priation	Federal Funds
1 Economic Loss Claim		
2 Payment Fund. 33400	\$	3,000,000

JUDICIAL*316 - Supreme Court*Fund 8867 FY 2015 Org 2400

1	Personal Services and		
2	Employee Benefits..... 00100	\$	250,000
3	Current Expenses..... 13000		<u>1,750,000</u>
4	Total.....	\$	2,000,000

EXECUTIVE*317 - Governor's Office*

(WV Code Chapter 5)

Fund 8742 FY 2015 Org 0100

1	Personal Services and		
2	Employee Benefits..... 00100	\$	86,677
3	Current Expenses..... 13000		<u>138,323</u>
4	Total.....	\$	225,000

318 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2015 Org 1400

1	Personal Services and		
2	Employee Benefits..... 00100	\$	1,563,760
3	Unclassified..... 09900		50,534
4	Current Expenses..... 13000		3,229,161
5	Repairs and Alterations..... 06400		50,000
6	Equipment..... 07000		<u>160,000</u>
7	Total.....	\$	5,053,455

*319 - Department of Agriculture –
Meat Inspection*

(WV Code Chapter 19)

Fund 8737 FY 2015 Org 1400

1	Personal Services and	
2	Employee Benefits..... 00100	\$ 610,830
3	Unclassified..... 09900	8,755
4	Current Expenses..... 13000	136,012
5	Repairs and Alterations..... 06400	5,500
6	Equipment..... 07000	<u>114,478</u>
7	Total.....	\$ 875,575

*320 - Department of Agriculture –
State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2015 Org 1400

1	Personal Services and	
2	Employee Benefits..... 00100	\$ 97,250
3	Current Expenses..... 13000	<u>1,717,064</u>
4	Total.....	\$ 1,814,314

*321 - Department of Agriculture –
Land Protection Authority*

Fund 8896 FY 2015 Org 1400

1	Personal Services and	
2	Employee Benefits..... 00100	\$ 46,526
3	Unclassified..... 09900	5,004
4	Current Expenses..... 13000	<u>448,920</u>
5	Total.....	\$ 500,450

322 - Secretary of State –
State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2015 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 210,240
3	Unclassified.....	09900	12,374
4	Current Expenses.....	13000	749,837
5	Repairs and Alterations.....	06400	15,000
6	Equipment.....	07000	150,000
7	Other Assets.....	69000	<u>100,000</u>
8	Total.....		\$ 1,237,451

DEPARTMENT OF ADMINISTRATION

323 - Children’s Health Insurance Agency

(WV Code Chapter 5)

Fund 8838 FY 2015 Org 0230

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 533,752
3	Current Expenses.....	13000	<u>47,422,974</u>
4	Total.....		\$ 47,956,726

DEPARTMENT OF COMMERCE

324 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2015 Org 0305

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 942,347

APPROPRIATIONS

[Ch. 13]

3	Unclassified.	09900		51,050
4	Current Expenses.	13000		5,622,560
5	Repairs and Alterations.	06400		155,795
6	Equipment.	07000		50,000
7	Other Assets.	69000		1,808,300
8	Total.		\$	8,630,052

325 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2015 Org 0306

1	Personal Services and Employee			
2	Benefits.	00100	\$	54,894
3	Unclassified.	09900		3,803
4	Current Expenses.	13000		194,177
5	Repairs and Alterations.	06400		5,000
6	Equipment.	07000		7,500
7	Other Assets.	69000		15,000
8	Federal Economic Stimulus.	89100		1,162,076
9	Total.		\$	1,442,450

326 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2015 Org 0307

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,052,547
3	Unclassified.	09900		96,900
4	Current Expenses.	13000		8,532,505
5	Repairs and Alterations.	06400		2,000
6	Equipment.	07000		19,000
7	Total.		\$	9,702,952

327 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2015 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 384,072
3	Unclassified.	09900	5,572
4	Current Expenses.	13000	167,098
5	Repairs and Alterations.	06400	500
6	Total.....		<u>\$ 557,242</u>

328 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2015 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 7,912,218
3	Unclassified.	09900	107,693
4	Current Expenses.	13000	4,256,594
5	Repairs and Alterations.	06400	89,400
6	Equipment.	07000	1,178,242
7	Buildings.	25800	1,000
8	Other Assets.	69000	51,000
9	Land.	73000	1,000
10	Total.....		<u>\$ 13,597,147</u>

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

(WV Code Chapter 22)

Fund 8709 FY 2015 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 613,177

260	APPROPRIATIONS	[Ch. 13
3	Current Expenses. 13000	<u>150,000</u>
4	Total.	\$ 763,177

330 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2015 Org 0323

1	Unclassified. 09900	\$ 5,127
2	Current Expenses. 13000	507,530
3	Reed Act 2002 – Unemployment	
4	Compensation. 62200	2,850,000
5	Reed Act 2002 – Employment	
6	Services. 63000	<u>1,650,000</u>
7	Total.	\$ 5,012,657

8 Pursuant to the requirements of 42 U.S.C. 1103, Section 903
9 of the Social Security Act, as amended, and the provisions of
10 W.Va. Code §21A-9-9, the above appropriation to Unclassified
11 and Current Expenses shall be used by WorkForce West Virginia
12 for the specific purpose of administration of the state’s
13 unemployment insurance program or job service activities,
14 subject to each and every restriction, limitation or obligation
15 imposed on the use of the funds by those federal and state
16 statutes.

*331 - Office of the Secretary –
Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8780 FY 2015 Org 0327

1	Personal Services and Employee	
2	Benefits. 00100	\$ 497,289
3	Unclassified. 09900	106,795

Ch. 13]	APPROPRIATIONS	261
4	Current Expenses. 13000	10,068,916
5	Repairs and Alterations. 06400	500
6	Equipment. 07000	<u>6,000</u>
7	Total.	\$ 10,679,500

332 - Division of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2015 Org 0328

1	Personal Services and Employee	
2	Benefits. 00100	\$ 411,574
3	Unclassified. 09900	15,000
4	Current Expenses. 13000	1,082,968
5	Repairs and Alterations. 06400	200
6	Equipment. 07000	<u>1,000</u>
7	Total.	\$ 1,510,742

DEPARTMENT OF EDUCATION

*333 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2015 Org 0402

1	Personal Services and Employee	
2	Benefits. 00100	\$ 7,078,855
3	Unclassified. 09900	2,000,000
4	Current Expenses. 13000	208,917,820
5	Repairs and Alterations. 06400	10,000
6	Equipment. 07000	10,000
7	Other Assets. 69000	10,000
8	Federal Economic Stimulus. 89100	<u>2,000,000</u>
9	Total.	\$ 220,026,675

*334 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2015 Org 0402

1	Personal Services and Employee	
2	Benefits. 00100	\$ 1,757,174
3	Unclassified. 09900	1,150,500
4	Current Expenses. 13000	113,321,265
5	Repairs and Alterations. 06400	20,000
6	Equipment. 07000	100,000
7	Other Assets. 69000	<u>25,000</u>
8	Total.	\$ 116,373,939

*335 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2015 Org 0402

1	Personal Services and Employee	
2	Benefits. 00100	\$ 1,506,396
3	Unclassified. 09900	155,000
4	Current Expenses. 13000	13,820,081
5	Repairs and Alterations. 06400	10,000
6	Equipment. 07000	10,000
7	Other Assets. 69000	<u>10,000</u>
8	Total.	\$ 15,511,477

*336 - State Board of Education –
Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2015 Org 0402

1	Personal Services and Employee		
2	Benefits. 00100	\$	4,038,490
3	Unclassified. 09900		1,000,000
4	Current Expenses. 13000		102,646,390
5	Repairs and Alterations. 06400		10,000
6	Equipment. 07000		10,000
7	Other Assets. 69000		<u>10,000</u>
8	Total.....	\$	107,714,880

DEPARTMENT OF EDUCATION AND THE ARTS

*337 - Department of Education and the Arts –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 8841 FY 2015 Org 0431

1	Personal Services and Employee		
2	Benefits. 00100	\$	414,424
3	Current Expenses. 13000		5,589,576
4	Repairs and Alterations. 06400		<u>1,000</u>
5	Total.....	\$	6,005,000

338 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2015 Org 0431

1	Personal Services and Employee		
2	Benefits. 00100	\$	743,046
3	Current Expenses. 13000		1,947,372
4	Repairs and Alterations. 06400		1,000
5	Equipment. 07000		1,000

264		APPROPRIATIONS	[Ch. 13
6	Buildings.	25800	1,000
7	Other Assets.....	69000	1,000
8	Land.	73000	<u>360</u>
9	Total.....		\$ 2,694,778

339 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2015 Org 0433

1	Personal Services and Employee		
2	Benefits.	00100	\$ 328,059
3	Current Expenses.....	13000	1,081,157
4	Repairs and Alterations.	06400	2,000
5	Equipment.	07000	<u>542,000</u>
6	Total.....		\$ 1,953,216

340 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2015 Org 0439

1	Equipment.	07000	\$ 750,000
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*341 - State Board of Rehabilitation –
Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2015 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 12,616,894
3	Current Expenses.....	13000	53,118,076
4	Repairs and Alterations.	06400	350,300
5	Equipment.	07000	<u>1,275,870</u>
6	Total.....		\$ 67,361,140

*342 - State Board of Rehabilitation –
Division of Rehabilitation Services –
Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2015 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 15,906,125
3	Current Expenses.	13000	9,207,634
4	Repairs and Alterations.	06400	1,100
5	Equipment.	07000	<u>83,350</u>
6	Total.		\$ 25,198,209

DEPARTMENT OF ENVIRONMENTAL PROTECTION

343 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2015 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 26,900,372
3	Current Expenses.	13000	166,815,980
4	Repairs and Alterations.	06400	222,083
5	Equipment.	07000	888,188
6	Other Assets.	69000	146,216
7	Land.	73000	<u>100,000</u>
8	Total.		\$ 195,072,839

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

344 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	627,336
3	Unclassified. 09900		73,307
4	Current Expenses. 13000		<u>6,630,103</u>
5	Total.....	\$	7,330,746

*345 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	13,744,404
3	Unclassified. 09900		910,028
4	Current Expenses. 13000		79,148,201
5	Equipment. 07000		456,972
6	Buildings. 25800		155,000
7	Other Assets. 69000		380,000
8	Federal Economic Stimulus. 89100		<u>150,000</u>
9	Total.....	\$	94,944,605

*346 - Division of Health –
West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2015 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund – Transfer. 68900	\$	16,000,000

347 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2015 Org 0507

1	Unclassified.	09900	\$	9,966
2	Current Expenses.	13000		<u>986,649</u>
3	Total.....		\$	996,615

348 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2015 Org 0510

1	Personal Services and Employee			
2	Benefits.	00100	\$	549,827
3	Unclassified.	09900		5,482
4	Current Expenses.	13000		<u>90,389</u>
5	Total.....		\$	645,698

349 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 8722 FY 2015 Org 0511

1	Personal Services and Employee			
2	Benefits.	00100	\$	67,320,701
3	Unclassified.	09900		22,855,833
4	Current Expenses.	13000		71,598,431
5	Medical Services.	18900		2,658,202,632
6	Medical Services Administrative			
7	Costs.	78900		132,045,119
8	Federal Economic Stimulus.....	89100		<u>41,442,659</u>
9	Total.....		\$	2,993,465,375

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

350 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2015 Org 0601

1	Personal Services and Employee		
2	Benefits. 00100	\$	437,996
3	Unclassified. 09900		250,053
4	Current Expenses. 13000		24,303,277
5	Repairs and Alterations. 06400		6,500
6	Other assets. 69000		<u>7,500</u>
7	Total.....	\$	25,005,326

*351 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2015 Org 0603

1	Unclassified. 09900	\$	982,705
2	Martinsburg Starbase. 74200		375,000
3	Charleston Starbase. 74300		265,000
4	Mountaineer ChalleNGe Academy. 70900		2,750,000
5	Military Authority. 74800		<u>93,897,900</u>
6	Total.....	\$	98,270,605

7 The adjutant general shall have the authority to transfer
8 between appropriations.

*352 - Adjutant General –
West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2015 Org 0603

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,350,000
3	Current Expenses. 13000		300,000
4	Equipment. 07000		<u>350,000</u>
5	Total.....	\$	2,000,000

*353 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2015 Org 0606

1	Personal Services and Employee		
2	Benefits. 00100	\$	721,650
3	Current Expenses. 13000		20,429,281
4	Repairs and Alterations. 06400		5,000
5	Equipment. 07000		<u>100,000</u>
6	Total.....	\$	21,255,931

354 - Division of Corrections

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2015 Org 0608

1	Unclassified. 09900	\$	1,100
2	Current Expenses. 13000		<u>108,900</u>
3	Total.....	\$	110,000

355 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2015 Org 0612

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,798,840

270	APPROPRIATIONS	[Ch. 13
3	Current Expenses..... 13000	1,510,696
4	Repairs and Alterations. 06400	42,000
5	Equipment. 07000	2,120,461
6	Buildings. 25800	750,500
7	Other Assets..... 69000	130,600
8	Land. 73000	<u>500</u>
9	Total.....	\$ 6,353,597

356 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2015 Org 0619

1	Current Expenses..... 13000	\$ 80,000
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357 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2015 Org 0620

1	Personal Services and Employee	
2	Benefits. 00100	\$ 724,370
3	Unclassified. 09900	25,185
4	Current Expenses. 13000	7,371,559
5	Repairs and Alterations. 06400	<u>1,750</u>
6	Total.....	\$ 8,122,864

DEPARTMENT OF REVENUE

*358 - Tax Division –
Consolidated Federal Fund*

(WV Code Chapter 11)

Fund 8899 FY 2015 Org 0702

1	Current Expenses..... 13000	\$ 10,000
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359 - Insurance Commissioner

(WV Code Chapter 33)

Fund 8883 FY 2015 Org 0704

1	Personal Services and Employee		
2	Benefits.	00100	\$ 837,970
3	Current Expenses.	13000	12,962,957
4	Repairs and Alterations.	06400	25,000
5	Equipment.	07000	250,000
6	Buildings.	25800	25,000
7	Other Assets.	69000	<u>100,000</u>
8	Total.		\$ 14,200,927

DEPARTMENT OF TRANSPORTATION

360 - Division of Motor Vehicles

(WV Code Chapter 17B)

Fund 8787 FY 2015 Org 0802

1	Personal Services and Employee		
2	Benefits.	00100	\$ 501,394
3	Current Expenses.	13000	17,671,640
4	Repairs and Alterations.	06400	<u>500</u>
5	Total.		\$ 18,173,534

361 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2015 Org 0805

1	Personal Services and Employee		
2	Benefits.	00100	\$ 656,256
3	Current Expenses.	13000	7,712,187

272	APPROPRIATIONS	[Ch. 13
4	Repairs and Alterations. 06400	2,500
5	Equipment. 07000	4,896,731
6	Buildings. 25800	1,505,526
7	Other Assets. 69000	<u>575,000</u>
8	Total.	\$ 15,348,200

362 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2015 Org 0806

1	Current Expenses. 13000	\$ 100,000
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DEPARTMENT OF VETERANS' ASSISTANCE

363 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2015 Org 0613

1	Personal Services and Employee	
2	Benefits. 00100	\$ 2,749,840
3	Current Expenses. 13000	3,927,160
4	Repairs and Alterations. 06400	50,000
5	Equipment. 07000	200,000
6	Buildings. 25800	600,000
7	Other Assets. 69000	100,000
8	Land. 73000	<u>100,000</u>
9	Total.	\$ 7,727,000

*364 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2015 Org 0618

1	Personal Services and Employee		
2	Benefits.	00100	\$ 877,375
3	Current Expenses.	13000	844,632
4	Repairs and Alterations.	06400	220,000
5	Equipment.	07000	198,000
6	Buildings.	25800	296,000
7	Other Assets.	69000	20,000
8	Land.	73000	10,000
9	Total.....		\$ 2,466,007

BUREAU OF SENIOR SERVICES

365 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2015 Org 0508

	Personal Services and Employee		
	Benefits.	00100	\$ 713,590
	Current Expenses.	13000	13,819,656
	Repairs and Alterations.	06400	3,000
	Total.....		\$ 14,536,246

MISCELLANEOUS BOARDS AND COMMISSIONS

*366 - Public Service Commission --
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2015 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,286,913
3	Current Expenses.	13000	368,953

274	APPROPRIATIONS	[Ch. 13
4	Repairs and Alterations. 06400	40,000
5	Federal Economic Stimulus. 89100	<u>801,598</u>
6	Total.	\$ 2,497,464

*367 - Public Service Commission –
Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2015 Org 0926

1	Personal Services and Employee	
2	Benefits. 00100	\$ 337,532
3	Current Expenses. 13000	39,648
4	Equipment. 07000	7,695
5	Unclassified. 09900	<u>352</u>
6	Total.	\$ 385,227

368 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2015 Org 0941

1	Personal Services and Employee	
2	Benefits. 00100	\$ 111,576
3	Current Expenses. 13000	478,424
4	Repairs and Alterations. 06400	5,000
5	Equipment. 07000	3,000
6	Other Assets. 69000	<u>2,000</u>
7	Total.	\$ 600,000

369 - Coal Heritage Highway Authority

(WV Code Chapter 29)

Fund 8861 FY 2015 Org 0942

1	Personal Services and Employee	
2	Benefits. 00100	\$ 47,059

3	Current Expenses.	13000		<u>152,941</u>
4	Total.		\$	200,000
5	Total TITLE II, Section 6 –			
6	Federal Funds.			<u>\$4,224,047,010</u>

1 **Sec. 7. Appropriations from federal block grants.** – The
2 following items are hereby appropriated from federal block
3 grants to be available for expenditure during the fiscal year 2015.

*370 - West Virginia Development Office –
Community Development*

Fund 8746 FY 2015 Org 0307

1	Personal Services and Employee			
2	Benefits.	00100	\$	648,117
3	Unclassified.	09900		483,500
4	Current Expenses.	13000		47,226,995
5	Repairs and Alterations.	06400		<u>300</u>
6	Total.		\$	48,358,912

*371 - WorkForce West Virginia –
Workforce Investment Act*

Fund 8749 FY 2015 Org 0323

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,511,208
3	Unclassified.	09900		23,023
4	Current Expenses.	13000		18,857,799
5	Repairs and Alterations.	06400		1,600
6	Equipment.	07000		500
7	Buildings.	25800		1,100
8	Federal Economic Stimulus.	89100		<u>1,007,110</u>
9	Total.		\$	21,402,340

*372 - Department of Commerce
Office of the Secretary –
Office of Economic Opportunity –
Community Services*

Fund 8781 FY 2015 Org 0327

1	Personal Services and Employee		
2	Benefits. 00100	\$	362,389
3	Unclassified. 09900		84,000
4	Current Expenses. 13000		7,948,611
5	Repairs and Alterations. 06400		1,000
6	Equipment. 07000		<u>4,000</u>
7	Total.....	\$	8,400,000

*373 - Division of Health –
Maternal and Child Health*

Fund 8750 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	2,124,294
3	Unclassified. 09900		110,017
4	Current Expenses. 13000		<u>8,767,420</u>
5	Total.....	\$	11,001,731

*374 - Division of Health –
Preventive Health*

Fund 8753 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	162,320
3	Unclassified. 09900		22,457
4	Current Expenses. 13000		1,895,366
5	Equipment. 07000		<u>165,642</u>
6	Total.....	\$	2,245,785

*375 - Division of Health –
Substance Abuse Prevention and Treatment*

Fund 8793 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 822,766
3	Unclassified.	09900	115,924
4	Current Expenses.	13000	<u>10,653,740</u>
5	Total.		\$ 11,592,430

*376 - Division of Health –
Community Mental Health Services*

Fund 8794 FY 2015 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 936,557
3	Unclassified.	09900	33,533
4	Current Expenses.	13000	<u>2,383,307</u>
5	Total.		\$ 3,353,397

*377 - Division of Human Services –
Energy Assistance*

Fund 8755 FY 2015 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,475,000
3	Unclassified.	09900	350,000
4	Current Expenses.	13000	<u>33,175,000</u>
5	Total.		\$ 35,000,000

*378 - Division of Human Services –
Social Services*

Fund 8757 FY 2015 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 14,231,684
3	Unclassified.	09900	171,982
4	Current Expenses.	13000	<u>2,870,508</u>
5	Total.		\$ 17,274,174

*379 - Division of Human Services –
Temporary Assistance for Needy Families*

Fund 8816 FY 2015 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 17,964,349
3	Unclassified.	09900	1,304,191
4	Current Expenses.	13000	<u>111,207,846</u>
5	Total.		\$ 130,476,386

*380 - Division of Human Services –
Child Care and Development*

Fund 8817 FY 2015 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,654,643
3	Unclassified.	09900	350,000
4	Current Expenses.	13000	<u>30,248,417</u>
5	Total.		\$ 35,253,060

*381 - Division of Justice and Community Services –
Juvenile Accountability Incentive*

Fund 8829 FY 2015 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 14,246
3	Current Expenses.	13000	235,729
4	Repairs and Alterations.	06400	<u>25</u>
5	Total.		\$ 250,000

6 Total TITLE II, Section 7 —
 7 Federal Block Grants..... \$ 324,608,215

1 **Sec. 8. Awards for claims against the state.** — There are
 2 hereby appropriated for fiscal year 2015, from the fund as
 3 designated, in the amounts as specified, general revenue funds
 4 in the amount of \$2,920,734, special revenue funds in the
 5 amount of \$351,398, and state road funds in the amount of
 6 \$611,755 for payment of claims against the state.

1 **Sec. 9. Appropriations from general revenue surplus**
 2 **accrued.** — The following item is hereby appropriated from the
 3 state fund, general revenue, and are to be available for
 4 expenditure during the fiscal year 2015 out of surplus funds
 5 only, accrued from the fiscal year ending June 30, 2014, subject
 6 to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the
 8 following appropriation be payable only from surplus accrued as
 9 of July 31, 2014 from the fiscal year ending June 30, 2014, only
 10 after first meeting requirements of W.Va. Code §11B-2-20(b).

11 In the event that surplus revenues available on July 31, 2014,
 12 are not sufficient to meet the appropriation made pursuant to this
 13 section, then the appropriation shall be made to the extent that
 14 surplus funds are available as of the date mandated to meet the
 15 appropriation in this section.

382 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2015 Org 0702

1 Tax Technology Upgrade —
 2 Surplus..... 45000 \$ 2,300,000

1 **Sec. 10. Special revenue appropriations.** — There are
2 hereby appropriated for expenditure during the fiscal year 2015
3 appropriations made by general law from special revenues which
4 are not paid into the state fund as general revenue under the
5 provisions of W.Va. Code §12-2-2: Provided, That none of the
6 money so appropriated by this section shall be available for
7 expenditure except in compliance with the provisions of W.Va.
8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending
9 unit has filed with the director of the budget and the legislative
10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues
12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what
14 purposes the fund is to be expended.

15 In addition to the preceding provisions, any unencumbered
16 balance in the Courtesy Patrol Fund (fund 3078), established by
17 W.Va. Code §5B-2-12, which exceeds \$500,000 at the close of
18 the fiscal year 2014, shall be transferred to the Tourism
19 Promotion Fund (fund 3072).

1 **Sec. 11. State improvement fund appropriations.** —
2 Bequests or donations of nonpublic funds, received by the
3 Governor on behalf of the state during the fiscal year 2015, for
4 the purpose of making studies and recommendations relative to
5 improvements of the administration and management of
6 spending units in the executive branch of state government, shall
7 be deposited in the state treasury in a separate account therein
8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited
10 during the fiscal year 2015 to be expended as authorized by the
11 Governor, for such studies and recommendations which may
12 encompass any problems of organization, procedures, systems,

13 functions, powers or duties of a state spending unit in the
14 executive branch, or the betterment of the economic, social,
15 educational, health and general welfare of the state or its
16 citizens.

1 **Sec. 12. Specific funds and collection accounts.** — A fund
2 or collection account which by law is dedicated to a specific use
3 is hereby appropriated in sufficient amount to meet all lawful
4 demands upon the fund or collection account and shall be
5 expended according to the provisions of Article 3, Chapter 12 of
6 the Code.

1 **Sec. 13. Appropriations for refunding erroneous**
2 **payment.** — Money that has been erroneously paid into the state
3 treasury is hereby appropriated out of the fund into which it was
4 paid, for refund to the proper person.

5 When the officer authorized by law to collect money for the
6 state finds that a sum has been erroneously paid, he or she shall
7 issue his or her requisition upon the Auditor for the refunding of
8 the proper amount. The Auditor shall issue his or her warrant to
9 the Treasurer and the Treasurer shall pay the warrant out of the
10 fund into which the amount was originally paid.

1 **Sec. 14. Sinking fund deficiencies.** — There is hereby
2 appropriated to the Governor a sufficient amount to meet any
3 deficiencies that may arise in the mortgage finance bond
4 insurance fund of the West Virginia housing development fund
5 which is under the supervision and control of the municipal bond
6 commission as provided by W.Va. Code §31-18-20b, or in the
7 funds of the municipal bond commission because of the failure
8 of any state agency for either general obligation or revenue
9 bonds or any local taxing district for general obligation bonds to
10 remit funds necessary for the payment of interest and sinking
11 fund requirements. The Governor is authorized to transfer from
12 time to time such amounts to the municipal bond commission as
13 may be necessary for these purposes.

14 The municipal bond commission shall reimburse the state of
15 West Virginia through the Governor from the first remittance
16 collected from the West Virginia housing development fund or
17 from any state agency or local taxing district for which the
18 Governor advanced funds, with interest at the rate carried by the
19 bonds for security or payment of which the advance was made.

1 **Sec. 15. Appropriations for local governments.** — There
2 are hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to pay
4 taxes due counties, districts and municipal corporations and
5 which have been paid into the treasury:

6 (a) For redemption of lands;

7 (b) By public service corporations;

8 (c) For tax forfeitures.

1 **Sec. 16. Total appropriations.** — Where only a total sum
2 is appropriated to a spending unit, the total sum shall include
3 personal services and employee benefits, annual increment,
4 current expenses, repairs and alterations, buildings, equipment,
5 other assets, land, and capital outlay, where not otherwise
6 specifically provided and except as otherwise provided in TITLE
7 I – GENERAL PROVISIONS, Sec. 3.

1 **Sec. 17. General school fund.** — The balance of the
2 proceeds of the general school fund remaining after the payment
3 of the appropriations made by this act is appropriated for
4 expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION.

1 **Sec. 1. Appropriations conditional.** — The expenditure of
2 the appropriations made by this act, except those appropriations
3 made to the legislative and judicial branches of the state

4 government, are conditioned upon the compliance by the
5 spending unit with the requirements of Article 2, Chapter 11B of
6 the Code.

7 Where spending units or parts of spending units have been
8 absorbed by or combined with other spending units, it is the
9 intent of this act that appropriations and reappropriations shall be
10 to the succeeding or later spending unit created, unless otherwise
11 indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is
2 declared unconstitutional by a court of competent jurisdiction, its
3 decision shall not affect any portion of this act which remains,
4 but the remaining portion shall be in full force and effect as if
5 the portion declared unconstitutional had never been a part of the
6 act.

CHAPTER 14

**(S. B. 346 - By Senators Kessler (Mr. President)
and M. Hall)**

[By Request of the Executive]

[Passed January 29, 2014; in effect from passage.]

[Approved by the Governor on February 4, 2014.]

AN ACT making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Division of Natural Resources, fund 3267, fiscal year 2014, organization 0310, and to the Bureau of Senior Services - Lottery Senior Citizens Fund, fund 5405, fiscal year 2014, organization 0508, by supplementing and amending the appropriations for the fiscal year ending June 30, 2014.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 8, 2014, which included a Statement of the Lottery Fund setting forth therein the unappropriated cash balance as of July 1, 2013, and further included the estimate of revenues for the fiscal year 2014, less regular appropriations for fiscal year 2014; and

WHEREAS, It appears from the Governor’s Statement of Lottery Fund, there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2014; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2014, to fund 3267, fiscal year 2014, organization 0310, be supplemented and amended by increasing existing items and adding a new item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 4. Appropriations from lottery net profits.

285-Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2014 Org 0310

			Act- ivity		Lottery Funds
1	1	Personal Services.....	001	\$	1,848,630
2	2	Employee Benefits.....	010		1,018,652
3	7a	Parks Operations (R).....	645		3,735,796

4 Any unexpended balance remaining in the above
 5 appropriation for Parks Operations (fund 3267, activity 645) at
 6 the close of the fiscal year 2014 is hereby reappropriated for
 7 expenditure during the fiscal year 2015.

8 And, That the total appropriation for the fiscal year ending
 9 June 30, 2014, to fund 5405, fiscal year 2014, organization 0508,
 10 be supplemented and amended by increasing an existing item of
 11 appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 4. Appropriations from lottery net profits.

*291–Bureau of Senior Services -
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2014 Org 0508

	Act- ivity	Lottery Funds
1 21 Senior Services Medicaid		
2 Transfer.	871	\$ 41,918,667

3 The purpose of this supplementary appropriation bill is to
 4 supplement, amend, increase existing items and add a new item
 5 of appropriation in the aforesaid accounts for the designated
 6 spending units for expenditure during the fiscal year 2014.

CHAPTER 15

**(S. B. 341 - By Senators Kessler (Mr. President)
and M. Hall)
[By Request of the Executive]**

[Passed February 5, 2014; in effect from passage.]
[Approved by the Governor on February 13, 2014.]

AN ACT making a supplementary appropriation from the State Fund, State Excess Lottery Revenue Fund, to the Department of Health and Human Resources, Division of Human Services, fund 5365, fiscal year 2014, organization 0511, by supplementing and amending chapter four, Acts of the Legislature, regular session, 2013, known as the Budget Bill.

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document on January 8, 2014, which included a Statement of the State Excess Lottery Revenue Fund, setting forth therein the unappropriated cash balance as of July 1, 2013, and further included the estimate of revenue for the fiscal year 2014, less regular appropriations and other adjustments for the fiscal year 2014; and

WHEREAS, It appears from the Governor's Statement of the State Excess Lottery Revenue Fund there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2014; therefore

Be it enacted by the Legislature of West Virginia:

That chapter four, Acts of the Legislature, regular session, 2013, known as the Budget Bill, be supplemented and amended by adding to Title II, section five thereof, the following:

TITLE II-APPROPRIATIONS.

Section 5. Appropriations from State Excess Lottery Revenue Fund.

312a-Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2014 Org 0511

		Act- ivity	Excess Lottery Funds
1	1	Medical Services. 189	\$ 67,432,506
2		The purpose of this supplementary appropriation bill is to	
3		add a new item of appropriation in the aforesaid account for the	
4		designated spending unit for expenditure during the fiscal year	
5		2014.	

CHAPTER 16

(Com. Sub. for H. B. 4410 - By Delegate Hartman)

[Passed March 8, 2014; in effect ninety days from passage.]
 [Approved by the Governor on March 31, 2014.]

AN ACT to amend and reenact §19-2C-1, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6, §19-2C-6b, §19-2C-8 and §19-2C-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §19-2C-3a, §19-2C-3b and §19-2C-9a, all relating to auctioneers and apprentice auctioneers; clarifying definitions; updating license

requirements; updating duties of licensees; updating requirements for license renewals and expired licenses; authorizing rulemaking for the Commissioner of the Department of Agriculture; allowing fees to be set by legislative rule; clarifying the special fund; increasing length of record retention; clarifying examination requirements and excuses; clarifying qualifying test scores; restricting length of apprenticeship; updating duties of sponsoring auctioneer; increasing criminal penalties; requiring contracts to have certain provisions; and requiring escrow accounts.

Be it enacted by the Legislature of West Virginia:

That §19-2C-1, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6, §19-2C-6b, §19-2C-8 and §19-2C-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §19-2C-3a, §19-2C-3b and §19-2C-9a, all to read as follows:

ARTICLE 2C. AUCTIONEERS.

§19-2C-1. Definitions.

1 For the purposes of this article:

2 (a) “Auctioneer” means a person who sells goods or real
3 estate at public auction for another on commission or for other
4 compensation. The term “auctioneer” does not include:

5 (1) Persons conducting sales at auctions conducted by or
6 under the direction of any public authority or pursuant to any
7 judicial order or direction or to any sale required by law to be at
8 auction;

9 (2) The owner of any real or personal property when
10 personally sold at auction by the owner and the owner has not
11 personally conducted an auction within the previous
12 twelve-month period;

13 (3) Persons conducting sales pursuant to a deed of trust;

14 (4) Fiduciaries of estates when selling real or personal
15 property of the estate;

16 (5) Persons conducting sales on behalf of charitable,
17 religious, fraternal or other nonprofit organizations; and

18 (6) Persons properly licensed pursuant to the provisions of
19 article forty, chapter thirty of this code when conducting an
20 auction, any portion of which contains any leasehold or any
21 estate in land whether corporeal or incorporeal, freehold or
22 nonfreehold, when the person is retained to conduct an auction
23 by a receiver or trustee in bankruptcy, a fiduciary acting under
24 the authority of a deed of trust or will, or a fiduciary of a
25 decedent's estate: *Provided*, That nothing contained in this
26 article exempts persons conducting sales at public markets from
27 the provisions of article two-a of this chapter, where the sale is
28 confined solely to livestock, poultry and other agriculture and
29 horticulture products.

30 (b) "Commissioner" means the Commissioner of Agriculture
31 of West Virginia.

32 (c) "Department" means the West Virginia Department of
33 Agriculture.

34 (d) "Escrow account" means a separate custodial or trust
35 fund account maintained by the auctioneer.

36 (e) "Public auction" means any public sale of real or
37 personal property when offers or bids are made by prospective
38 purchasers and the property sold to the highest bidder.

**§19-2C-3. Procedure for license; Department of Agriculture as
statutory agent for licensees.**

1 (a) An applicant for an auctioneer license shall:

2 (1) Apply on forms prescribed by the commissioner;

3 (2) Pay a nonreturnable application fee and a license fee; and

4 (3) File a bond as required by this article.

5 (b) The commissioner shall, within thirty days after the
6 receipt of an application, notify the applicant of his or her
7 eligibility to be examined at the next regularly scheduled
8 examination, as well as the date of the examination.

9 (c) If the license is denied, the commissioner shall refund the
10 license fee submitted with the application to the applicant.

11 (d) All licenses expire on December 31 of each year. A
12 license may be renewed upon the payment of the annual renewal
13 fee within sixty days of the expiration date. Renewals received
14 more than sixty days after the expiration date are subject to a late
15 renewal fee in addition to the annual renewal fee.

16 (e) A license that has been expired for more than two years
17 cannot be renewed until the auctioneer or apprentice auctioneer
18 takes the written and oral examination, pays the examination fee
19 and complies with the other requirements of this article.

20 (f) Where an auctioneer or apprentice auctioneer requires a
21 duplicate or replacement license or a license reflecting a change
22 in information, the auctioneer or apprentice auctioneer shall
23 submit the fee with the request.

24 (g) The state Department of Agriculture is the agent for the
25 purpose of service of process on a licensed auctioneer for any
26 action occasioned by the performance of the duties of the
27 auctioneer. Every licensed auctioneer, by virtue of his or her
28 application for a license, shall be considered to have consented
29 to the statutory agency.

§19-2C-3a. Rulemaking.

1 (a) The commissioner shall propose rules for legislative
2 approval in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code, to:

- 4 (1) Establish the license requirements for auctioneers and
5 apprentice auctioneers, including the bond requirements;
 - 6 (2) Set a fee schedule;
 - 7 (3) Establish the renewal and expiration requirements for
8 licenses;
 - 9 (4) Establish the continuing education requirements for
10 licensees;
 - 11 (5) Establish waiver of examination requirements for
12 apprentice auctioneers;
 - 13 (6) Permit consent agreements or negotiated settlements for
14 the civil penalties; and
 - 15 (7) Implement the provisions of this article.
- 16 (b) The fees in effect on January 1, 2014, shall remain in
17 effect until modified by legislative rule.

§19-2C-3b. Special revenue fund.

1 All fees collected under this article shall be paid into a
2 special revenue fund in the State Treasury to be used by the
3 Department of Agriculture for the purpose of administering and
4 enforcing this article, and providing continuing education for
5 auctioneers.

§19-2C-5. Requirements for auctioneer license; duties of licensee.

- 1 (a) A person seeking an auctioneer license shall submit
2 satisfactory evidence to the commissioner showing that he or
3 she:
- 4 (1) Has successfully completed the written and oral
5 examinations required by this article;
 - 6 (2) Has a good reputation;

7 (3) Is of trustworthy character;

8 (4) Has met the apprenticeship requirements set forth in this
9 article, if applicable;

10 (5) Is a citizen of the United States; and

11 (6) Has a general knowledge of the auctioneering profession
12 and the principles involved in conducting an auction.

13 (b) A licensee shall:

14 (1) Promptly produce for inspection his or her license at all
15 sales conducted by or participated in by the licensee when
16 requested to do so by any person; and

17 (2) Keep complete and accurate records of all transactions
18 engaged in for a period of three years.

19 (c) For the purposes of this section, the term "record"
20 includes, but is not limited to:

21 (1) Copies of signed contracts, including the names of
22 buyers and their addresses;

23 (2) Clerk sheets showing items sold, including buyers
24 numbers or names, and the selling prices; and

25 (3) Final settlement papers.

26 (d) The records of the auctioneer shall be open to inspection
27 by the commissioner or his or her authorized representative.

§19-2C-5a. Examinations of applicants; excuse for illness.

1 (a) Examinations shall be held in April and October of each
2 year, at a time and place to be designated by the commissioner
3 or his or her authorized representative.

4 (b) An individual auctioneer applicant may take the
5 examination for auctioneer or apprentice auctioneer at the
6 regularly scheduled time and place.

7 (c) The apprentice auctioneer's examination shall consist of
8 a written examination.

9 (d) The auctioneer's examination shall consist of both a
10 written and oral examination. The passing grade for any written
11 or oral examination shall be seventy percent out of one hundred
12 percent. The oral portion will be scored by the commissioner or
13 his or her authorized representative.

14 (e) If the applicant fails either the written or oral portion of
15 the examination, no license will be issued and he or she may not
16 be administered the examination again until the next regularly
17 scheduled examination date.

18 (f) A person who has an auctioneer license is considered to
19 be a professional in his or her trade.

20 (g) Only one notice of the examination will be mailed or
21 emailed to the applicant at the address given on the application.
22 If the applicant fails to appear for an examination, except as
23 provided in this subsection, a new application and a new fee
24 shall be required. No fee will be returned, except when the
25 applicant fails to take the examination because of illness
26 evidenced by a doctor's certificate sent to the commissioner. If
27 excused because of illness, the applicant shall be admitted to the
28 next scheduled examination without paying an additional fee. No
29 applicant may be excused from taking the scheduled
30 examination for any reason other than illness, unless in the
31 judgment of the commissioner the applicant would suffer undue
32 hardship by not being excused.

33 (h) An examination fee and any other fees required by this
34 article, shall be collected from each person taking an

35 examination. If the applicant has previously paid the
36 examination fee and successfully completed the apprentice
37 auctioneer's examination, no additional examination fee will be
38 required to take the auctioneer's examination.

39 (i) If the commissioner determines that an applicant does not
40 qualify for a license, he or she shall notify the applicant by
41 certified mail. The notice shall state:

42 (1) The reason for the refusal to grant a license; and

43 (2) The applicant's right to appeal the commissioner's
44 decision within twenty days of receipt of the notice.

45 (j) An examination is not required for the renewal of a
46 license, unless the license has been revoked or suspended, or has
47 expired. If the license was revoked or suspended, then the
48 commissioner may require a person to take and pass a written or
49 oral examination. If a license has been expired for more than two
50 years and was not revoked or suspended, then the applicant is
51 required to take and pass any written and oral examinations
52 required by the commissioner.

§19-2C-6. Requirements for apprentice auctioneer license.

1 (a) A person seeking an apprentice auctioneer license shall
2 furnish to the commissioner, on forms provided by the
3 commissioner, satisfactory proof that he or she:

4 (1) Has a good reputation;

5 (2) Is a trustworthy character;

6 (3) Is a citizen of the United States; and

7 (4) Has taken and passed a written examination relating to
8 the skills and knowledge of the statutes and rules governing
9 auctioneers.

10 (b) An apprentice auctioneer may take the examination to
11 become an auctioneer after completing one of the following:

12 (1) Serving a two-year apprenticeship under a licensed
13 auctioneer; or

14 (2) Attending a nationally accredited graduate school of
15 auctioneering, approved by the commissioner, and serving an
16 apprenticeship of six months.

17 (c) Before an apprentice auctioneer may take the
18 auctioneer's examination, the apprentice auctioneer shall
19 conduct at least six auction sales under the direct supervision of
20 the sponsoring auctioneer. The commissioner may waive the
21 requirements of this section, on an individual basis, upon the
22 presentation of written evidence that the applicant has
23 educational training or exceptional experience in the
24 auctioneering profession and that the applicant has been unable
25 to obtain sponsorship by a licensed auctioneer: *Provided*, That
26 the commissioner may not waive apprenticeship requirements
27 for an applicant without the concurrence of the board of review.

28 (d) When an apprentice auctioneer is discharged or
29 terminates his or her employment with an auctioneer for any
30 reason, the auctioneer shall immediately provide written
31 notification to the commissioner. No discharged or terminated
32 apprentice auctioneer may thereafter perform any acts under the
33 authority of his or her license until the apprentice auctioneer
34 receives a new license bearing the name and address of his or her
35 new employer. No more than one license may be issued to an
36 apprentice auctioneer for the same period of time.

37 (e) The commissioner may not issue an apprentice
38 auctioneer license until bond has been filed. All apprentice
39 auctioneer licenses expire on December 31 of each year, but are
40 renewable upon the payment of the annual fee.

41 (f) A person cannot be licensed as an apprentice auctioneer
42 for more than three years without applying for an auctioneer
43 license. Should an apprentice auctioneer allow the three year
44 limit to lapse, then the apprentice auctioneer shall be required to
45 take the apprentice examination and meet all the requirements of
46 this article.

**§19-2C-6b. Duties and responsibilities of an apprentice auctioneer
and a sponsoring auctioneer.**

1 (a) A licensed apprentice auctioneer shall only conduct or
2 assist in auctions under the direct supervision of his or her
3 sponsoring auctioneer. A licensed apprentice auctioneer may not
4 enter into a contract to conduct an auction, unless the contract is
5 cosigned by his or her sponsoring auctioneer.

6 (b) The sponsoring auctioneer is responsible for:

7 (1) The actions of an apprentice auctioneer to ensure
8 adherence to state law; and

9 (2) Training the apprentice auctioneer in all aspects of
10 practical business functions and duties related to the
11 auctioneering profession.

12 (c) Should an apprentice auctioneer fail to pass both the
13 written and oral examinations to become a fully licensed
14 auctioneer in two consecutive testing sessions, the sponsorship
15 will be terminated. The apprentice auctioneer will be permitted
16 one additional opportunity to pass the oral and written auctioneer
17 examinations only after serving another six month
18 apprenticeship under a different sponsoring auctioneer.

19 (d) A sponsoring auctioneer relieved of his or her
20 sponsorship will not be considered for another sponsorship
21 unless he or she provides a written affidavit to the commissioner
22 that he or she fully understands the responsibilities of a

23 sponsoring auctioneer and gives the details as to what additional
24 training will be provided to a new apprentice auctioneer. If the
25 commissioner or his or her representative approves the presented
26 plan, then an auctioneer may be permitted to sponsor a new
27 apprentice auctioneer.

28 (e) If an apprentice auctioneer conducts an auction without
29 the consent of his or her sponsoring auctioneer, then only the
30 apprentice auctioneer is subject to the penalties set forth in this
31 article.

§19-2C-8. Penalties.

1 (a) *Criminal penalties.* — Any person, firm, association or
2 corporation violating a provision of this article or the rules, is
3 guilty of a misdemeanor, and upon conviction, shall be fined not
4 less than \$250 nor more than \$500 for the first offense, and not
5 less than \$500 nor more than \$1,000 for the second and
6 subsequent offenses. Magistrates have concurrent jurisdiction
7 with circuit courts to enforce the provisions of this article.

8 (b) *Civil penalties.* — Any person violating a provision of
9 this article or the rules, may be assessed a civil penalty by the
10 commissioner. In determining the amount of the civil penalty,
11 the commissioner shall give due consideration to the history of
12 previous violations by the person, the seriousness of the
13 violation, and the demonstrated good faith of the person charged
14 in attempting to achieve compliance with this article before and
15 after written notification of the violation. The commissioner may
16 assess a penalty of not more than \$200 for each first offense, and
17 not more than \$1,000 for a second and subsequent offense. The
18 civil penalty is payable to the State of West Virginia and is
19 collectible in any manner provided for collection of debt. If any
20 person liable to pay the civil penalty neglects or refuses to pay
21 the penalty, the amount of the civil penalty, together with
22 interest at ten percent, is a lien in favor of the State of West

23 Virginia upon the property, both real and personal, of the person
24 after the same has been entered and docketed to record in the
25 county where the property is situated. The clerk of the county,
26 upon receipt of the certified copy of the lien, shall enter it to
27 record without requiring the payment of costs as a condition
28 precedent to recording.

29 (c) No state court may allow for the recovery of damages for
30 any administrative action taken if the court finds that there was
31 probable cause for such action.

§19-2C-9. Written contracts.

1 (a) No person may act as an auctioneer on the sale at public
2 auction of any goods, wares, merchandise or of any other
3 property, real or personal, until he or she has entered into a
4 written contract in duplicate with the owner or consignor of the
5 property to be sold. No apprentice auctioneer may be authorized
6 to enter into a contract without the written consent of his or her
7 sponsoring auctioneer. All contracts shall be in the name of and
8 on behalf of the sponsoring auctioneer.

9 (b) The written contract shall:

10 (1) State the terms and conditions upon which the auctioneer
11 receives or accepts the property for sale at auction;

12 (2) Be between the auctioneer and the seller;

13 (3) Be made in duplicate;

14 (4) Be retained by the auctioneer for a period of three years
15 from the date of final settlement;

16 (5) Be furnished to each person that entered into the
17 contract;

18 (6) State that an apprentice auctioneer may not contract
19 directly with a client but only through his or her sponsoring
20 auctioneer;

21 (7) State that an apprentice auctioneer may not engage in a
22 sale with an auctioneer by whom he or she is not sponsored
23 without first obtaining the written consent of his or her
24 sponsoring auctioneer;

25 (8) Have a prominent statement indicating that the
26 auctioneer is licensed by the Department of Agriculture and is
27 bonded in favor of the State of West Virginia; and

28 (9) Include the following information:

29 (A) The name, address and phone number of the owner of
30 the property to be sold or the consignor;

31 (B) The date of the auction or a termination date of the
32 contract;

33 (C) The terms and conditions of the auction;

34 (D) The location of the auction;

35 (E) The date the owner or consignor is to be paid;

36 (F) A statement establishing the responsibility for bad
37 checks, debts and unpaid auction items;

38 (G) A detailed list of all fees to be charged by the auctioneer,
39 including commissions, rentals, advertising and labor;

40 (H) A statement of the auctioneer's policy regarding
41 absentee bidding;

42 (I) A statement above the owner's signature line: "I have
43 read and accept the terms of the contract"; and

44 (J) A statement indicating that an explanation of settlement
45 of the auction, or settlement sheet, will be provided to the owner
46 or consignor at the end of the auction.

§19-2C-9a. Escrow accounts.

1 Each auctioneer shall maintain an escrow account and
2 deposit all moneys from each sale from an auction in the escrow
3 account within twenty-four hours of the completion of the sale
4 or on the first business day following the sale, unless the owner
5 or consignor was paid in cash directly at the end of the sale.

CHAPTER 17

(S. B. for S. B. 202 - By Senator Unger)

[Passed March 7, 2014; in effect July 1, 2014]
[Approved by the Governor on March 31, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §31F-1-101, §31F-1-102, §31F-1-103, §31F-2-201, §31F-2-202, §31F-2-203, §31F-3-301, §31F-4-401, §31F-4-402, §31F-4-403 and §31F-5-501, all relating to benefit corporations generally; authorizing a corporation to elect to be a benefit corporation; authorizing a corporation to amend its articles of incorporation to include a statement that the corporation is a benefit corporation; authorizing a corporation to terminate status as a benefit corporation; authorizing the articles of a benefit corporation to identify as one of the purposes of the benefit corporation the creation of specific public benefits; establishing that a director shall not have a duty to a certain person; providing that a director shall have immunity from liability under certain circumstances; requiring a benefit corporation to deliver to each stockholder an annual report; and defining terms.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new chapter, designated §31F-1-101, §31F-1-102, §31F-1-103, §31F-2-201, §31F-2-202, §31F-2-203, §31F-3-301, §31F-4-401, §31F-4-402, §31F-4-403 and §31F-5-501, all to read as follows:

CHAPTER 31F. WEST VIRGINIA BENEFIT CORPORATION ACT.

ARTICLE 1. GENERAL PROVISIONS.

§31F-1-101. Short title.

- 1 This chapter is and may be cited as the West Virginia
- 2 Benefit Corporation Act.

§31F-1-102. Definitions.

- 1 As used in this article:

- 2 (a) "Benefit corporation" means a corporation organized
- 3 pursuant to the provisions of this chapter:

- 4 (1) That has elected to become subject to this article; and

- 5 (2) The status of which as a benefit corporation has not been
- 6 terminated under section two hundred three, article two of this
- 7 chapter.

- 8 (b) "Benefit enforcement proceeding" means any claim or
- 9 action brought directly by a benefit corporation, or derivatively
- 10 on behalf of a benefit corporation, against a director or officer
- 11 for: (i) Failure to pursue the general public benefit purpose of the
- 12 benefit corporation or any specific public benefit purpose set
- 13 forth in its articles of incorporation or bylaws or otherwise
- 14 adopted by its board of directors; or (ii) a violation of a duty or
- 15 standard of conduct under this article.

16 (c) “General public benefit” means a material positive
17 impact on society and the environment taken as a whole, as
18 measured by a third-party standard, from the business and
19 operations of a benefit corporation.

20 (d) “Independent” means having no material relationship
21 with a benefit corporation or a subsidiary of the benefit
22 corporation, either directly as a shareholder of the benefit
23 corporation or as a partner, a member or an owner of a
24 subsidiary of the benefit corporation or indirectly as a director,
25 an officer, an owner, or a manager of an entity that has a material
26 relationship with the benefit corporation or a subsidiary of the
27 benefit corporation. A material relationship between a person
28 and a benefit corporation or any of its subsidiaries will be
29 conclusively presumed to exist if:

30 (1) The person is, or has been within the last three years, an
31 employee of the benefit corporation or a subsidiary of the benefit
32 corporation;

33 (2) An immediate family member of the person is, or has
34 been within the last three years, an executive officer of the
35 benefit corporation or its subsidiary; or

36 (3) There is beneficial ownership of five percent or more of
37 the outstanding shares of the benefit corporation by:

38 (A) The person; or

39 (B) An entity:

40 (i) Of which the person is a director, an officer or a manager;
41 or

42 (ii) In which the person owns beneficially five percent or
43 more of the outstanding equity interests, which percentage shall
44 be calculated as if all outstanding rights to acquire equity
45 interests in the entity had been exercised.

46 (e) “Specific public benefit” means a benefit that serves one
47 or more public welfare, religious, charitable, scientific, literary
48 or educational purposes, or other purpose or benefit beyond the
49 strict interest of the shareholders of the benefit corporation,
50 including:

51 (1) Providing low-income or underserved individuals or
52 communities with beneficial products or services;

53 (2) Promoting economic opportunity for individuals or
54 communities beyond the creation of jobs in the normal course of
55 business;

56 (3) Preserving or improving the environment;

57 (4) Improving human health;

58 (5) Promoting the arts, sciences or advancement of
59 knowledge;

60 (6) Increasing the flow of capital to entities with a public
61 benefit purpose; and

62 (7) Conferring any other particular benefit on society or the
63 environment.

64 (f) “Subsidiary” means, in relation to an individual, an entity
65 in which the individual either: (i) Owns directly or indirectly
66 equity interests entitled to cast a majority of the votes entitled to
67 be cast generally in an election of directors or members of the
68 governing body of the entity; or (ii) otherwise owns or controls
69 voting or contractual power to exercise effective governing
70 control of the entity. The percentage of ownership of equity
71 interests or ownership or control of power to exercise control
72 shall be calculated as if all outstanding rights to acquire equity
73 interests in the entity had been exercised.

74 (g) “Third-party standard” means a recognized standard for
75 defining, reporting, and assessing corporate social and
76 environmental performance that:

77 (1) Is developed by a person that is independent of the
78 benefit corporation; and

79 (2) Is transparent because the following information about
80 the standard is publicly available:

81 (A) The factors considered when measuring the performance
82 of a business;

83 (B) The relative weightings of those factors; and

84 (C) The identity of the persons that develop and control
85 changes to the standard and the process by which those changes
86 are made.

§31F-1-103. Construction of chapter.

1 (a) This chapter shall apply to all benefit corporations.

2 (b) The existence of a provision of this chapter does not of
3 itself create an implication that a contrary or different rule of law
4 applies to a corporation organized pursuant to the provisions of
5 this code that is not a benefit corporation. This chapter does not
6 affect a statute or rule of law that applies to a corporation that is
7 not a benefit corporation.

8 (c) The specific provisions of this chapter control over the
9 general provisions of other chapters of this code.

ARTICLE 2. INCORPORATION.

§31F-2-201. Formation of benefit corporations.

1 A benefit corporation shall be formed in accordance with
2 article two, chapter thirty-one-d of this code, and its articles as
3 initially filed with the Secretary of State or as amended, shall
4 state that it is a benefit corporation.

§31F-2-202. Election of status after formation.

1 A corporation that was not formed as a benefit corporation
2 may become a benefit corporation by amending its articles so
3 that they contain, in addition to matters required by section two
4 hundred two, article two, chapter thirty-one-d of this code, a
5 statement that the corporation is a benefit corporation. Any such
6 amendment to the articles of incorporation shall be adopted in
7 accordance with the procedures set forth in article ten, chapter
8 thirty-one-d of this code.

§31F-2-203. Termination of status.

1 A benefit corporation may terminate its status as such and
2 cease to be subject to this chapter by amending its articles to
3 delete the provision required by section two hundred one of this
4 article to be set forth in the articles of incorporation, which
5 amendment shall be adopted in accordance with the procedures
6 set forth in article ten, chapter thirty-one-d of this code.

ARTICLE 3. PURPOSES.**§31F-3-301. Corporate purposes.**

1 (a) A benefit corporation shall have as one of its purposes
2 the purpose of creating a general public benefit. The articles of
3 incorporation of a benefit corporation may identify one or more
4 specific public benefits that it is the purpose of the benefit
5 corporation to create. A specific public benefit may also be
6 specified in the bylaws or otherwise adopted by the board of
7 directors. This purpose is in addition to its purpose under section
8 three hundred two, article three, chapter thirty-one-d of this
9 code.

10 (b) The creation of a general public benefit and one or more
11 specific public benefits, if any, under subsection (a) of this
12 section is in the best interests of the benefit corporation.

13 (c) A benefit corporation may amend its articles of
14 incorporation to add, amend or delete the identification of a
15 specific public benefit that it is the purpose of the benefit
16 corporation to create, which amendment shall be adopted in
17 accordance with the procedures set forth in article ten, chapter
18 thirty-one-d of this code.

ARTICLE 4. DIRECTORS AND OFFICERS.

§31F-4-401. Standard of conduct for directors.

1 (a) Subject to article eight, chapter thirty-one-d of this code,
2 in discharging the duties of their respective positions and in
3 considering the best interests of the benefit corporation, the
4 board of directors, committees of the board and individual
5 directors of a benefit corporation:

6 (1) Shall consider the effects of any corporate action upon:

7 (A) The shareholders of the benefit corporation;

8 (B) The employees and workforce of the benefit corporation,
9 its subsidiaries, and suppliers;

10 (C) The interests of customers as beneficiaries of the general
11 or specific public benefit purposes of the benefit corporation;

12 (D) Community and societal considerations, including those
13 of each community in which offices or facilities of the benefit
14 corporation, its subsidiaries, or suppliers are located;

15 (E) The local and global environment;

16 (F) The short-term and long-term interests of the benefit
17 corporation, including benefits that may accrue to the benefit
18 corporation from its long-term plans and the possibility that
19 these interests and the general and specific public benefit
20 purposes of the benefit corporation may be best served by the
21 continued independence of the benefit corporation; and

22 (G) The ability of the benefit corporation to accomplish its
23 general and any specific public benefit purpose;

24 (2) May consider:

25 (A) The resources; intent; and past, stated and potential
26 conduct of any person seeking to acquire control of the benefit
27 corporation; and

28 (B) Other pertinent factors or the interests of any other
29 person that they deem appropriate; and

30 (3) Need not give priority to the interests of a particular
31 person referred to in subdivisions (1) and (2) of this section over
32 the interests of any other person unless the benefit corporation
33 has stated its intention to give priority to interests related to a
34 specific public benefit purpose identified in its articles.

35 (b) The consideration of interests and factors in the manner
36 required by subsection (a) of this section does not constitute a
37 violation of section eight hundred thirty, article eight, chapter
38 thirty-one-d of this code or a director conflict of interests under
39 section eight hundred sixty, article eight, chapter thirty-one-d of
40 this code.

41 (c) In any proceeding brought by or in the right of a benefit
42 corporation or brought by or on behalf of the shareholders of a
43 benefit corporation, a director is not personally liable for
44 monetary damages for:

45 (1) Any action taken as a director if the director performed
46 the duties of office in compliance with section eight hundred
47 thirty, article eight, chapter thirty-one-d of this code and this
48 section; or

49 (2) Failure of the benefit corporation to create general public
50 benefit or any specific public benefit specified in its articles of
51 incorporation or bylaws or otherwise adopted by the board of
52 directors.

§31F-4-402. Limitation upon liability of officers.

1 An officer of a benefit corporation has no liability for actions
2 taken that the officer believes, in his or her good faith business
3 judgment, are consistent with: (i) The general public benefit or
4 specific public benefit specified in the articles of incorporation
5 or bylaws or otherwise adopted by the board of directors; and (ii)
6 the requirements of any third-party standard then in effect for the
7 corporation.

§31F-4-403. Right of action.

1 (a) The duties of directors and officers under this chapter,
2 the obligation of a benefit corporation to prepare and make
3 available the annual benefit report required under section five
4 hundred one, article five of this chapter and the general and any
5 specific public benefit purpose of a benefit corporation may be
6 enforced only in a benefit enforcement proceeding. No person
7 may bring an action or assert a claim against a benefit
8 corporation or its directors or officers with respect to the duties
9 of directors and officers under this article and the general and
10 any specific public benefit purpose of the benefit corporation
11 except in a benefit enforcement proceeding.

12 (b) A benefit enforcement proceeding may be commenced
13 or maintained only:

14 (1) Directly by the benefit corporation; or

15 (2) Derivatively by:

16 (A) A shareholder of the benefit corporation;

17 (B) A director of the benefit corporation; or

18 (C) Other persons as specified in the articles of incorporation
19 or bylaws of the benefit corporation.

ARTICLE 5. REPORT.**§31F-5-501. Annual benefit report.**

1 (a) A benefit corporation shall prepare an annual benefit
2 report that includes all of the following:

3 (1) A narrative description of:

4 (A) The ways in which the benefit corporation pursued the
5 general public benefit during the year and the extent to which the
6 general public benefit was created; and

7 (B) Both:

8 (i) The ways in which the benefit corporation pursued any
9 specific public benefit that the articles of incorporation or
10 bylaws, or other action taken by the board of directors, state it is
11 the purpose of the benefit corporation to create; and

12 (ii) The extent to which that specific public benefit was
13 created; and

14 (C) Any circumstances that have hindered the creation by the
15 benefit corporation of the general or any specific public benefit;

16 (2) An assessment of the social and environmental
17 performance of the benefit corporation. The assessment shall be:

18 (A) Prepared in accordance with a third-party standard
19 specified in the articles of incorporation, the bylaws, or
20 otherwise adopted by the board of directors and applied
21 consistently with any application of that standard in prior benefit
22 reports; or

23 (B) Accompanied by an explanation of the reasons for any
24 inconsistent application; and

25 (3) Any other information or disclosures that may be
26 required under any third-party standard adopted by the directors
27 of the benefit corporation.

28 (b) The benefit report shall be made available annually to
29 each shareholder of the benefit corporation:

30 (1) Within one hundred twenty days following the end of the
31 fiscal year of the benefit corporation; or

32 (2) At the same time that the benefit corporation delivers any
33 other annual report to its shareholders.

34 (c) A benefit corporation shall post its most recent benefit
35 report on a publicly accessible portion of its Internet website, if
36 any. If a benefit corporation does not have an Internet website,
37 it shall make a written or electronic copy of its most recent
38 benefit report available upon written request from any person. A
39 benefit corporation is not required to publically disclose to
40 persons other than its shareholders any proprietary, confidential,
41 or individual compensation information contained in its benefit
42 report to the extent that any third-party standard adopted by the
43 directors of the benefit corporation permits the omission of such
44 information from public disclosure.

CHAPTER 18

**(Com. Sub. for H. B. 4149 - By Mr. Speaker (Mr. Miley)
and Delegate Armstead)
[By Request of the Executive]**

[Passed March 7, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §5-4-1 of the Code of West Virginia, 1931, as amended, all relating to the Board of Public Works; providing for board members to be represented by designees; providing that designees may only vote on certain matters; and providing that no more than three designees may vote at a meeting.

Be it enacted by the Legislature of West Virginia:

That §5-4-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 4. BOARD OF PUBLIC WORKS.

§5-4-1. How constituted; powers and duties.

1 (a) The Governor, Secretary of State, Auditor,
2 Superintendent of Free Schools, Treasurer, Attorney General,
3 and Commissioner of Agriculture shall be and constitute a
4 corporation under the style of "The Board of Public Works." The
5 board shall have the powers and perform the duties prescribed
6 for it by law.

7 (b) Board members shall vote in person at regular meetings:
8 *Provided*, That a board member may send a designee to vote in
9 his or her stead: *Provided, however*, That a designee may only
10 vote on matters that appear on a properly posted agenda:
11 *Provided, further*, That no more than three designees may vote
12 at a meeting.

CHAPTER 19

**(H. B. 4503 - By Delegates Marshall, Iaquinta, Williams,
Anderson and A. Evans)
[By Request of the Executive]**

[Passed March 6, 2014; in effect from passage.]
[Approved by the Governor on March 24, 2014.]

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the Department of Health and Human Resources; Division of Corrections; and Division of Forestry to be moral obligations of the state and directing payments thereof.

1 The Legislature has heretofore made findings of fact that the
2 state has received the benefit of the commodities received and/or
3 services rendered by certain claimants herein and has considered
4 these claims against the state, and agencies thereof, which have
5 arisen due to over expenditures of the departmental
6 appropriations by officers of the state spending units, the claims
7 having been previously considered by the Court of Claims which
8 also found that the state has received the benefit of the
9 commodities received and/or services rendered by the claimants,
10 but were denied by the Court of Claims on the purely statutory
11 grounds that to allow the claims would be condoning illegal acts
12 contrary to the laws of the state. The Legislature, pursuant to its
13 findings of fact and also by the adoption of the findings of fact
14 by the Court of Claims as its own, while not condoning such
15 illegal acts, hereby declares it to be the moral obligation of the
16 state to pay these claims in the amounts specified below and
17 directs the Auditor to issue warrants upon receipt of properly
18 executed requisitions supported by itemized invoices, statements
19 or other satisfactory documents as required by section ten, article
20 three, chapter twelve of the Code of West Virginia, 1931, as
21 amended, for the payments thereof out of any fund appropriated
22 and available for the purpose.

23 (a) *Claims against the Department of Health and Human*
24 *Resources:*

25 (TO BE PAID FROM GENERAL REVENUE FUND)

26 (1) Chapman’s Mortuary. \$ 2,500.00

Ch. 20]	CLAIMS	313
27	(2) Dodd-Payne-Hess Funeral Home.	\$ 1,250.00
28	(b) <i>Claim against the Division of Corrections:</i>	
29	(TO BE PAID FROM GENERAL REVENUE FUND)	
30	(1) Silling Associates Inc...	\$ 105,037.60
31	(c) <i>Claim against the Division of Forestry:</i>	
32	(TO BE PAID FROM GENERAL REVENUE FUND)	
33	(1) Public Employees Insurance Agency. . .	\$ 14,104.78



CHAPTER 20

(S. B. 558 - By Senators Facemire, Edgell and Blair)

[Passed March 6, 2014; in effect from passage.]
 [Approved by the Governor on March 28, 2014.]

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the Department of Administration/Office of Technology; Department of Health and Human Resources; Division of Corrections; Division of Highways; Division of Juvenile Services; Division of Motor Vehicles; Real Estate Commission; Regional Jail Authority; and State of West Virginia to be moral obligations of the state and directing payment thereof.

1 The Legislature has considered the findings of fact and
 2 recommendations reported to it by the Court of Claims
 3 concerning various claims against the state and agencies thereof
 4 and in respect to each of the following claims, the Legislature
 5 adopts those findings of fact as its own and in respect of certain
 6 claims herein, the Legislature has independently made findings
 7 of fact and determinations of award and hereby declares it to be
 8 the moral obligation of the state to pay each such claim in the
 9 amount specified below and directs the Auditor to issue warrants
 10 for the payment thereof out of any fund appropriated and
 11 available for the purpose.

12 (a) *Claims against the Department of Administration/Office*
 13 *of Technology:*

14 (TO BE PAID FROM SPECIAL REVENUE FUND)

- 15 (1) American Telephone Wiring Company..... \$245.00
- 16 (2) Ebridge Consulting LLC..... \$156,256.75
- 17 (3) IBM Corporation. \$10,278.66
- 18 (4) Pitney Bowes Inc.. \$6,438.00
- 19 (5) Planet Technologies Inc.. \$86,615.00
- 20 (6) Pomeroy IT Solutions Sales
- 21 Company Inc.. \$87,827.04

22 (b) *Claims against the Department of Health and Human*
 23 *Resources:*

24 (TO BE PAID FROM GENERAL REVENUE FUND)

- 25 (1) AT&T Communications of
- 26 West Virginia. \$22,000.00
- 27 (2) Terrell Ellis & Associates Inc..... \$24,581.83

28 (c) *Claims against the Division of Corrections:*

29 (TO BE PAID FROM GENERAL REVENUE FUND)

30	(1) Jonathan Boatwright.	\$4.47
31	(2) Miguel Delgado.	\$35.00
32	(3) Alva L. Richmond.	\$17.85
33	(4) James L. Riley III.	\$2.12
34	(5) Charles E. Roberts.	\$450.00
35	(6) Bobby Roddy.	\$56.45
36	(7) Dale Shoop.	\$19.49
37	(8) Matthew Smallwood.	\$420.00
38	(9) Regional Jail Authority.	\$2,645,204.00

39 (d) *Claims against the Division of Highways:*

40 (TO BE PAID FROM STATE ROAD FUND)

41	(1) Josanna Kim Aaron.	\$173.40
42	(2) Karen Adams.	\$403.77
43	(3) Michael S. Alastanos.	\$300.00
44	(4) Berna K. Ankrom.	\$296.86
45	(5) James A. Arnett.	\$250.00
46	(6) Jessica Bailey.	\$221.00
47	(7) Paul Bailey Jr. and Jennifer Bailey.	\$286.65
48	(8) Chris M. Baker.	\$133.75

316	CLAIMS	[Ch. 20
49	(9) Virginia L. Baker.....	\$500.00
50	(10) Peggy S. Banish.....	\$500.00
51	(11) Caleb Banks.....	\$500.00
52	(12) Barry Barnett.	\$356.00
53	(13) Virgil Barnette Jr..	\$232.35
54	(14) William E. Barry.	\$311.76
55	(15) Teresa A. Barton.	\$250.00
56	(16) Jennifer Susan Beafore.	\$243.80
57	(17) John H. Black.....	\$325.90
58	(18) Kerry L. Black.....	\$143.60
59	(19) Deborah L. Boggs.	\$868.98
60	(20) Gary C. Bradfield and	
61	Charlene Bradfield.	\$85.12
62	(21) Brenda Bragg.....	\$3,756.36
63	(22) Ronald E. Brandstetter.....	\$87.85
64	(23) Dale D. Brown Sr..	\$119.00
65	(24) Dwight R. Browning.	\$317.00
66	(25) Sandra Burdette.	\$250.00
67	(26) Brian Burkhammer.	\$356.52
68	(27) Ray A. Cadd.....	\$500.00
69	(28) Darleen R. Caldwell.....	\$4,000.00

Ch. 20]	CLAIMS	317
70	(29) Arlie Campbell and Tammy Campbell.	\$250.00
71	(30) Benjamin E. Carpenter and	
72	Kasey A. Tucker.	\$500.00
73	(31) Thelma J. Carpenter.	\$231.61
74	(32) Catherine Cauley.	\$500.00
75	(33) Tina Cecil.	\$147.34
76	(34) Ray O. Chandler and	
77	Emily J. Chandler.	\$174.90
78	(35) Dollie P. Childers.	\$114.48
79	(36) Gene Chiorello.	\$100.00
80	(37) Robert Chumney.	\$275.55
81	(38) John D. Clarkson.	\$199.76
82	(39) Leonard Cleavenger and	
83	Donna Cleavenger.	\$250.00
84	(40) Raymond Gary Clevenger.	\$3,000.00
85	(41) Susan Cleaver.	\$716.54
86	(42) Douglas P. Cochran.	\$310.91
87	(43) Mary J. Coen.	\$80.69
88	(44) Jennifer K. Coiner.	\$250.00
89	(45) Michael Cole.	\$370.68
90	(46) Christina Columbo.	\$452.17
91	(47) Randi Conley and Patrick Conley.	\$500.00
92	(48) Michael Conte.	\$500.00

318	CLAIMS	[Ch. 20
93	(49) Robert L. Cook and Michelle Cook.....	\$8,000.00
94	(50) James M. Cooper.....	\$314.53
95	(51) Francine C. Corey.....	\$500.00
96	(52) Arnold Lee Cottrell Jr.....	\$751.00
97	(53) Samuel Robert Cover and	
98	Terri Lynn Cover.....	\$500.00
99	(54) Candice B. Crane and Kevin L. Crane.....	\$500.00
100	(55) Matthew Crimmel.....	\$320.00
101	(56) Erica Lynn Cumpston.....	\$146.81
102	(57) Charles S. Dague.....	\$21.20
103	(58) Jon Daniels.....	\$10,850.00
104	(59) Johnathan Daniels, by and	
105	through his parent, Jon Daniels.....	\$4,150.00
106	(60) Lori A. Davis.....	\$151.50
107	(61) Phillip E. Davis.....	\$250.00
108	(62) Melissa Devericks.....	\$101.00
109	(63) Edgar K. Dicken.....	\$238.20
110	(64) Spencer Didion.....	\$232.00
111	(65) Theresa Dillon.....	\$1,016.54
112	(66) Kate Nicole Dobson-Forman.....	\$1,000.00
113	(67) Mary F. Dolin.....	\$187.80
114	(68) Shayna Dorazio.....	\$1,000.00

115	(69) Russell L. Dorton.....	\$94.66
116	(70) Michael Dotson and Andrea Dotson.	\$290.44
117	(71) David Downward.....	\$15,000.00
118	(72) Gerard D'Souza.	\$127.20
119	(73) Nora Jane Duncan.	\$211.34
120	(74) George E. Durban III.....	\$218.79
121	(75) Todd M. Dye.	\$500.00
122	(76) Cherie Edwards.	\$475.00
123	(77) Malinda Edwards and Oral L. Edwards.....	\$499.88
124	(78) Charles V. Elsender.	\$250.00
125	(79) Alphonso Erby.....	\$303.94
126	(80) Patricia A. Evans.	\$307.16
127	(81) Margaret Fix-Billington.....	\$578.39
128	(82) Joyce Ann Fletcher and	
129	Harry K. Fletcher.	\$500.00
130	(83) Sam Floyd and Kim Floyd.....	\$500.00
131	(84) Gregory A. Foster.	\$250.00
132	(85) Dale A. Fox.	\$250.00
133	(86) Alice J. Foy.	\$500.00
134	(87) Rodger Keith Franks.	\$250.00
135	(88) Phillip R. Frazier.	\$631.24

320	CLAIMS	[Ch. 20
136	(89) Randy R. Geer and Kimberly D. Geer.....	\$935.56
137	(90) Robert E. Gilkeson.....	\$500.00
138	(91) Wayne E. Goddard and	
139	Mary Goddard.....	\$245.88
140	(92) Dale Gombarcik.....	\$161.60
141	(93) Ruth Graef and Gregory Graef.	\$412.03
142	(94) David W. Greear II and	
143	Jennifer Elaine Greear.	\$250.00
144	(95) Reginald H. Green.....	\$500.00
145	(96) Gary P. Hamilton.....	\$500.00
146	(97) Brad G. Hamrick.	\$318.52
147	(98) Kelly M. Hanna.	\$500.00
148	(99) Melissa Hapney.	\$100.70
149	(100) Mary Hardy.	\$238.00
150	(101) Jennifer Harmon and Jimmy Harmon.	\$500.00
151	(102) Matthew G. Harper.	\$424.32
152	(103) Timothy Harper and Carrie R. Harper.....	\$250.00
153	(104) Larry Harris.	\$195.57
154	(105) Virginia M. Harris.	\$500.00
155	(106) Brenda Harshbarger.....	\$500.00
156	(107) Johnna Harter.....	\$500.00

157	(108) Vicky S. Hartley and	
158	Jonathan E. Hartley.	\$500.00
159	(109) Terri Hughes Harwood and	
160	Jason D. Harwood..	\$235.37
161	(110) David Hatten.	\$260.71
162	(111) Terrell K. Haught.	\$250.00
163	(112) William R. Headley.	\$289.37
164	(113) Skyler Hebden.	\$397.00
165	(114) Donna K. Hemphill.	\$250.00
166	(115) Kurstie S. Hendon.	\$137.75
167	(116) Chris Henson.	\$500.00
168	(117) Kevin Herbaugh and	
169	Debbie Herbaugh.	\$856.06
170	(118) Robert K. Hertzog and	
171	Lori Hertzog.	\$1,502.81
172	(119) Francis W. Hess and	
173	Patricia E. Hess.	\$228.96
174	(120) Cecil L. Hickman.	\$346.60
175	(121) Micheel J. Hildebrand.	\$127.41
176	(122) Kelly L. Hitt.	\$500.00
177	(123) Maurice D. Hoffman.	\$100.00
178	(124) Vicki C. Holstein.	\$219.56
179	(125) Trina Hood.	\$467.94

322	CLAIMS	[Ch. 20
180	(126) Robert L. Horner.	\$172.96
181	(127) Jason Howard.	\$159.37
182	(128) Leslie R. Howard and	
183	Mary J. Howard.	\$500.00
184	(129) Bonita Hubbard.	\$385.80
185	(130) Joseph Hutchinson and	
186	Jennifer Hutchinson.	\$85,000.00
187	(131) Teresa Hylton.	\$64.00
188	(132) Mariea Dawn Webb and Helen I. Ice.	\$308.89
189	(133) Stacy L. Jackson.	\$715.71
190	(134) Frank W. James.	\$960.01
191	(135) Dave Janssen and Adriane Janssen.	\$500.00
192	(136) Eleanor Jewell.	\$100.00
193	(137) Adam J. Johnson.	\$113.95
194	(138) Derek Johnson.	\$746.87
195	(139) Garrett Johnson.	\$80.56
196	(140) Jeremy Johnson.	\$364.75
197	(141) Larry B. Johnson.	\$197.82
198	(142) Ronnie Johnson.	\$185.45
199	(143) Angela S. Jones and Ricky Jones.	\$1,000.00
200	(144) Keith Jones.	\$125.08
201	(145) Rita Jones.	\$227.84

Ch. 20]	CLAIMS	323
202	(146) Robert W. Jones.....	\$500.00
203	(147) Shirley A. Jones.....	\$250.00
204	(148) William Chad Jones.....	\$607.31
205	(149) Karen Kaufmann.	\$173.02
206	(150) Charlotte Keaton and Basil Keaton.	\$500.00
207	(151) Angela Ann Keeney.....	\$95.35
208	(152) Matthew Keesecker.	\$268.00
209	(153) David R. Keith.....	\$1,000.00
210	(154) Robert Kelly.....	\$415.00
211	(155) Lisa L. Kennedy.....	\$191.31
212	(156) Barbara L. King.....	\$40,000.00
213	(157) Linda S. Kipp and	
214	Stanley H. Kipp.	\$250.00
215	(158) Gene Kiral and Jerri Kiral.	\$500.00
216	(159) Timothy W. Knoble.....	\$149.00
217	(160) Sharon Krasyk.	\$4,250.00
218	(161) Kenneth Krisantz.....	\$159.00
219	(162) Andrea Kroger.....	\$154.66
220	(163) Robert C. Krum.	\$285.03
221	(164) Sharon Krutilla.....	\$224.94
222	(165) Michael W. Sprowls and	
223	Alicia M. Kuhn.....	\$120.00

324	CLAIMS	[Ch. 20
224	(166) Jeffrey Kukura and Lisa Kukura.	\$336.97
225	(167) Mark T. Kyanko and Mari J. Kyanko.	\$500.00
226	(168) David D. Lambert Jr..	\$193.68
227	(169) Billy Jr Lane II.. . . .	\$1,000.00
228	(170) Tammy Lazzarine.	\$1,000.00
229	(171) Bari G. Lehn.. . . .	\$500.00
230	(172) Georgetta Lester.. . . .	\$1,000.00
231	(173) Jeffrey Lewis.	\$25,000.00
232	(174) Richard Lewis.	\$500.00
233	(175) Edward R. Link.	\$53.00
234	(176) Richard Linville.. . . .	\$500.00
235	(177) Harold F. Lipscomb.. . . .	\$600.00
236	(178) Becky Lofstead.	\$297.43
237	(179) Brenda S. Louk.	\$250.00
238	(180) JoAnn Lowery.	\$500.00
239	(181) Richard J. Lucas.. . . .	\$1,188.63
240	(182) Stephanie Lucas and Joshua Lucas.	\$259.95
241	(183) Madelyn Lusk.	\$100.00
242	(184) Gail C. Marsh.. . . .	\$79.50
243	(185) Bob Martin.. . . .	\$291.50
244	(186) Levi L. Martin.	\$250.00

245	(187) Travis E. Martin.....	\$60,000.00
246	(188) Jonna Mason.	\$500.00
247	(189) Gary L. Matheny.	\$196.10
248	(190) William H. May.....	\$500.00
249	(191) Virginia Ann Maynor..	\$250.00
250	(192) Joseph J. Mazella.....	\$388.46
251	(193) Janene R. McCarty and	
252	Pat McCarty.	\$437.29
253	(194) William F. McClelland Sr. and	
254	Janet L. McClelland.	\$250.00
255	(195) Catherine D. McLaughlin.	\$500.00
256	(196) William G. McLean Jr..	\$305.13
257	(197) Stevi Mead.....	\$180.00
258	(198) Wanda E. Meador.	\$250.00
259	(199) Sandra Meeks.....	\$201.40
260	(200) Paul C. Mendez.	\$500.00
261	(201) Jerry Michaels and	
262	Theresa Michaels.	\$745.55
263	(202) John David Miller.	\$153.70
264	(203) Tami Mitchem.	\$100.00
265	(204) James Monk.....	\$32,000.00
266	(205) Chalmer L. Morgan.	\$171.00

326	CLAIMS	[Ch. 20
267	(206) Melanie S. Morris.	\$327.49
268	(207) Beverly Morrison.....	\$250.00
269	(208) Ralph Moyer.	\$141.42
270	(209) Barbara Nissman.	\$500.00
271	(210) Judy A. Northup and Rich Northup.....	\$858.98
272	(211) David A. Noss.	\$118.78
273	(212) Laura O’Hara.....	\$569.28
274	(213) Joseph R. Ojeda.	\$200.00
275	(214) Krista Oxley.....	\$8,019.36
276	(215) Carla Pahl (Ross) and Nicole Pahl.....	\$95.93
277	(216) Mary A. Paisley.....	\$146.81
278	(217) Adel Palffy.....	\$66.89
279	(218) Lila Stewart Palumbo.....	\$612.57
280	(219) Mary Pape.	\$410.17
281	(220) Shobha Patel.	\$304.15
282	(221) Evan S. Pauley.....	\$2,000.00
283	(222) William J. Perry.....	\$500.00
284	(223) Gary L. Phillips.	\$100.00
285	(224) Collette Pinkard.....	\$187.69
286	(225) Audrey Pitt.....	\$413.60
287	(226) Benjamin Pitt.....	\$528.46

288	(227) Lee Anne M. Pruitt and	
289	Harold A. Pruitt.	\$141.79
290	(228) Laura Ann Pugh.	\$500.00
291	(229) Edward L. Rabel Jr.	\$250.00
292	(230) Lisa Raber.	\$201.25
293	(231) Charles C. Raber Jr.	\$256.29
294	(232) John Peter Richardson and	
295	Patricia A. Richardson.	\$160,000.00
296	(233) Paul J. Riggins.	\$200.00
297	(234) John E. Robinson.	\$83.25
298	(235) Karen S. Rogerson.	\$99.95
299	(236) Charles Roskovensky.	\$207.72
300	(237) Lisa Dianne Roth.	\$120.07
301	(238) Kenneth J. Rowback.	\$1,642.25
302	(239) Donna L. Roy and Robert J. Roy Sr.	\$500.00
303	(240) Roxie M. Runyon.	\$500.00
304	(241) Kimberly A. Rymer and	
305	Kenneth D. Rymer III.	\$370.95
306	(242) Sarah Burkhart and Jane Sackett.	\$137.80
307	(243) Jenny L. Santilli.	\$327.73
308	(244) Douglas L. Sappington.	\$332.20
309	(245) Lesley Sattes.	\$652.96
310	(246) Steve Schatzel.	\$475.18

328	CLAIMS	[Ch. 20
311	(247) Johnny D. Scott.	\$169.55
312	(248) Glenna Shaffer.....	\$500.00
313	(249) Carrie Shaw.	\$158.50
314	(250) Ronald R. Sheltz.	\$1,824.92
315	(251) Gregory Shimko and	
316	Dorothy Shimko.	\$250.00
317	(252) Howard L. Shinn.	\$359.40
318	(253) Tyler J. Shipp.....	\$3,110.00
319	(254) Stephen M. Sholes and	
320	Rebecca L. Sholes..	\$4,010.55
321	(255) Larry Shriver II.	\$156.45
322	(256) Jennifer Sigman.	\$693.00
323	(257) Jeremy D. Sipple.	\$500.00
324	(258) Tara Sizemore.	\$146.28
325	(259) Denita Smith.	\$127.20
326	(260) Jay R. Smith.....	\$171.36
327	(261) Mary C. Smith.	\$489.90
328	(262) Rick Snodgrass.	\$437.78
329	(263) Samuel Snodgrass.	\$250.00
330	(264) Sarah Snyder.	\$11,127.75
331	(265) Thomas Sowers.	\$369.51
332	(266) Brittany N. Staffileno.....	\$500.00

Ch. 20]	CLAIMS	329
333	(267) Kenneth Stamper.	\$200.00
334	(268) Adrian Stargell.	\$499.23
335	(269) Sandra J. Fittro and Chris Steffich.	\$250.00
336	(270) Richard Stotler.	\$250.00
337	(271) Joyce A. Stout.	\$333.90
338	(272) Gregory L. Street.	\$898.57
339	(273) Sheila Strong.	\$440.01
340	(274) James R. Stultz.	\$300.00
341	(275) Rinda Faye Stump.	\$173.84
342	(276) Carroll Summers.	\$629.64
343	(277) Ryan H. Sutton.	\$195.93
344	(278) Thomas Kopnski and Mary Lou Tait.	\$180.20
345	(279) Bruce Talago.	\$511.03
346	(280) Jamie Tallman.	\$330.00
347	(281) Steven A. Taylor.	\$82.44
348	(282) Jennifer A. Tennant.	\$106.75
349	(283) Raymond J. Terek and Sandra L. Terek. . .	\$500.00
350	(284) Ralph Thomas.	\$1,000.00
351	(285) Stephen Ashley Thomas.	\$128.21
352	(286) Howard G. Thompson.	\$500.00
353	(287) George Todd.	\$500.00

330	CLAIMS	[Ch. 20
354	(288) William Toney.....	\$2,251.69
355	(289) Fred Richard Travis Sr.	\$100.00
356	(290) George E. Trent.	\$98.00
357	(291) David E. Turner.	\$388.00
358	(292) Justin D. Vance.	\$500.00
359	(293) Alberta Vanscoy and Robin Vanscoy.	\$184.40
360	(294) John M. Vencill.	\$250.00
361	(295) Leora J. Vincent.....	\$250.00
362	(296) Patricia A. Wagers.....	\$500.00
363	(297) Damon J. Wallace.	\$72.46
364	(298) Deborah A. Ward.	\$130.99
365	(299) Betty Jeanette Watson.	\$353.50
366	(300) Cheryl Watson.	\$100.00
367	(301) Samantha Watson.	\$880.72
368	(302) Chris Webb.	\$204.53
369	(303) Lloyd Weeks.	\$146.84
370	(304) Richard Weinberger.....	\$706.20
371	(305) Bill Weiss.....	\$186.46
372	(306) Jerry L. Welch Jr.....	\$148.40
373	(307) Angie Wells.....	\$617.71
374	(308) Loretta June Westfall.....	\$8,000.00

375	(309) Cherish N. Whaley.....	\$200.00
376	(310) Sharon R. White.....	\$100.00
377	(311) Brandon Wilhite.....	\$5,275.30
378	(312) John C. Williams and Lois M. Williams... ..	\$250.00
379	(313) Rory T. Williams.....	\$227.44
380	(314) Thomas D. Willis and Dusty Willis.....	\$250.00
381	(315) Becky Wilson.....	\$175.23
382	(316) Crystal C. Wilson.....	\$250.00
383	(317) Charles P. Winans.....	\$212.05
384	(318) Vicki Wiseman.....	\$250.00
385	(319) Tiffany Wolfe.....	\$500.00
386	(320) Janice L. Wolford and	
387	Robert E. Wolford.....	\$500.00
388	(321) Ronald P. Wood.....	\$763.58
389	(322) Todd A. Wood and Rachel M. Wood.....	\$500.00
390	(323) Alphas R. Wyatt.....	\$154.10
391	(324) Ralph F. Wycoff and	
392	Crystal R. Wycoff.....	\$308.06
393	(325) Kimberly Yingling.....	\$349.75
394	(326) Jeffrey Yorty and Ann Yorty.....	\$1,218.72
395	(327) Floyd A. Yost.....	\$325.63
396	(328) Deborah I. Young.....	\$94.16

332	CLAIMS	[Ch. 20
397	(329) Matthew J. Youst and Tracy D. Youst.	\$500.00
398	(e) <i>Claim against the Division of Juvenile Services</i>	
399	(TO BE PAID FROM GENERAL REVENUE FUND)	
400	(1) Ronald Hambleton.	\$50.00
401	(f) <i>Claims against the Division of Motor Vehicles:</i>	
402	(TO BE PAID FROM STATE ROAD FUND)	
403	(1) Linsey Degarmo and	
404	Elizabeth Degarmo.	\$250.00
405	(2) Micky Leigh Jenks.	\$565.00
406	(3) Jody Johnson.	\$2,081.76
407	(g) <i>Claim against the Real Estate Commission:</i>	
408	(TO BE PAID FROM SPECIAL REVENUE FUND)	
409	(1) Public Employees Insurance Agency.	\$2,371.07
410	(h) <i>Claims against the Regional Jail Authority:</i>	
411	(TO BE PAID FROM SPECIAL REVENUE FUND)	
412	(1) Dickie Altizer.	\$4.42
413	(2) Vincent B. Banks.	\$500.00
414	(3) Joseph L. Cirigliano.	\$329.84
415	(4) David L. Gale.	\$93.00
416	(5) John M. Golaszewski.	\$120.00
417	(6) Zack McClendon.	\$271.36

418 (7) Michael Sams..... \$46.92

419 (i) *Claims against the State of West Virginia:*

420 (TO BE PAID FROM GENERAL REVENUE FUND)

421 (1) Wanda Carney..... \$48,000.00

422 (2) Betty Jarvis..... \$57,000.00

423 The Legislature finds that the above moral obligations and
424 the appropriations made in satisfaction thereof shall be the full
425 compensation for all claimants and that prior to the payments to
426 any claimant provided in this bill, the Court of Claims shall
427 receive a release from said claimant releasing any and all claims
428 for moral obligations arising from the matters considered by the
429 Legislature in the finding of the moral obligations and the
430 making of the appropriations for said claimant. The Court of
431 Claims shall deliver all releases obtained from claimants to the
432 department against which the claim was allowed.



CHAPTER 21

**(H. B. 4186 - By Delegates R. Phillips, White,
Tomblin, Marcum, Hamilton, A. Evans,
Ashley, Barker, Boggs, Hartman and Sponaule)**

[Passed March 6, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to the procedures for issuing a concealed weapon license; adding requirements to ensure that an applicant is not prohibited under the provisions of state or federal law from the receipt or possession of a firearm.

Be it enacted by the Legislature of West Virginia:

That §61-7-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

2 (a) Except as provided in subsection (h) of this section, any
3 person desiring to obtain a state license to carry a concealed
4 deadly weapon shall apply to the sheriff of his or her county for
5 the license, and pay to the sheriff, at the time of application, a
6 fee of \$75, of which \$15 of that amount shall be deposited in the
7 Courthouse Facilities Improvement Fund created by section six,
8 article twenty-six, chapter twenty-nine of this code. Concealed
9 weapons permits may only be issued for pistols or revolvers.
10 Each applicant shall file with the sheriff a complete application,
11 as prepared by the Superintendent of the West Virginia State
12 Police, in writing, duly verified, which sets forth only the
13 following licensing requirements:

14 (1) The applicant's full name, date of birth, Social Security
15 number, a description of the applicant's physical features, the
16 applicant's place of birth, the applicant's country of citizenship
17 and, if the applicant is not a United States citizen, any alien or
18 admission number issued by the United States Bureau of
19 Immigration and Customs enforcement, and any basis, if
20 applicable, for an exception to the prohibitions of 18 U. S. C. §
21 922(g)(5)(B);

22 (2) That, on the date the application is made, the applicant is
23 a bona fide resident of this state and of the county in which the
24 application is made and has a valid driver's license or other
25 state-issued photo identification showing the residence;

26 (3) That the applicant is twenty-one years of age or older:
27 *Provided*, That any individual who is less than twenty-one years

28 of age and possesses a properly issued concealed weapons
29 license as of the effective date of this article shall be licensed to
30 maintain his or her concealed weapons license notwithstanding
31 the provisions of this section requiring new applicants to be at
32 least twenty-one years of age: *Provided, however,* That upon a
33 showing of any applicant who is eighteen years of age or older
34 that he or she is required to carry a concealed weapon as a
35 condition for employment, and presents satisfactory proof to the
36 sheriff thereof, then he or she shall be issued a license upon
37 meeting all other conditions of this section. Upon discontinuance
38 of employment that requires the concealed weapons license, if
39 the individual issued the license is not yet twenty-one years of
40 age, then the individual issued the license is no longer eligible
41 and must return his or her license to the issuing sheriff;

42 (4) That the applicant is not addicted to alcohol, a controlled
43 substance or a drug and is not an unlawful user thereof as
44 evidenced by either of the following within the three years
45 immediately prior to the application:

46 (A) Residential or court-ordered treatment for alcoholism or
47 alcohol detoxification or drug treatment; or

48 (B) Two or more convictions for driving while under the
49 influence or driving while impaired;

50 (5) That the applicant has not been convicted of a felony
51 unless the conviction has been expunged or set aside or the
52 applicant's civil rights have been restored or the applicant has
53 been unconditionally pardoned for the offense;

54 (6) That the applicant has not been convicted of a
55 misdemeanor crime of violence other than an offense set forth in
56 subsection (7) of this section in the five years immediately
57 preceding the application;

58 (7) That the applicant has not been convicted of a
59 misdemeanor crime of domestic violence as defined in 18 U. S.

60 C. § 921(a)(33), or a misdemeanor offense of assault or battery
61 either under the provisions of section twenty-eight, article two of
62 this chapter or the provisions of subsection (b) or (c), section
63 nine, article two of this chapter in which the victim was a current
64 or former spouse, current or former sexual or intimate partner,
65 person with whom the defendant cohabits or has cohabited, a
66 parent or guardian, the defendant's child or ward or a member of
67 the defendant's household at the time of the offense, or a
68 misdemeanor offense with similar essential elements in a
69 jurisdiction other than this state;

70 (8) That the applicant is not under indictment for a felony
71 offense or is not currently serving a sentence of confinement,
72 parole, probation or other court-ordered supervision imposed by
73 a court of any jurisdiction or is the subject of an emergency or
74 temporary domestic violence protective order or is the subject of
75 a final domestic violence protective order entered by a court of
76 any jurisdiction;

77 (9) That the applicant has not been adjudicated to be
78 mentally incompetent or involuntarily committed to a mental
79 institution. If the applicant has been adjudicated mentally
80 incompetent or involuntarily committed the applicant must
81 provide a court order reflecting that the applicant is no longer
82 under such disability and the applicant's right to possess or
83 receive a firearm has been restored;

84 (10) That the applicant is not prohibited under the provisions
85 of section seven of this article or federal law, including
86 18 U.S.C. § 922(q) or (n), from receiving, possessing or
87 transporting a firearm;

88 (11) That the applicant has qualified under the minimum
89 requirements set forth in subsection (d) of this section for
90 handling and firing the weapon: *Provided*, That this requirement
91 shall be waived in the case of a renewal applicant who has
92 previously qualified; and

93 (12) That the applicant authorizes the sheriff of the county,
94 or his or her designee, to conduct an investigation relative to the
95 information contained in the application.

96 (b) For both initial and renewal applications, the sheriff shall
97 conduct an investigation including a nationwide criminal
98 background check consisting of inquiries of the National Instant
99 Criminal Background Check System, the West Virginia criminal
100 history record responses and the National Interstate
101 Identification Index and shall review the information received in
102 order to verify that the information required in subsection (a) of
103 this section is true and correct. A license may not be issued
104 unless the issuing sheriff has verified through the National
105 Instant Criminal Background Check System that the information
106 available to him or her does not indicate that receipt or
107 possession of a firearm by the applicant would be in violation of
108 the provisions of section seven of this article or federal law,
109 including 18 U.S.C. § 922(g) or (n).

110 (c) Sixty dollars of the application fee and any fees for
111 replacement of lost or stolen licenses received by the sheriff
112 shall be deposited by the sheriff into a concealed weapons
113 license administration fund. The fund shall be administered by
114 the sheriff and shall take the form of an interest-bearing account
115 with any interest earned to be compounded to the fund. Any
116 funds deposited in this concealed weapon license administration
117 fund are to be expended by the sheriff to pay the costs associated
118 with issuing concealed weapons licenses. Any surplus in the
119 fund on hand at the end of each fiscal year may be expended for
120 other law-enforcement purposes or operating needs of the
121 sheriff's office, as the sheriff considers appropriate.

122 (d) All persons applying for a license must complete a
123 training course in handling and firing a handgun. The successful
124 completion of any of the following courses fulfills this training
125 requirement:

126 (1) Any official National Rifle Association handgun safety
127 or training course;

128 (2) Any handgun safety or training course or class available
129 to the general public offered by an official law-enforcement
130 organization, community college, junior college, college or
131 private or public institution or organization or handgun training
132 school utilizing instructors certified by the institution;

133 (3) Any handgun training or safety course or class conducted
134 by a handgun instructor certified as such by the state or by the
135 National Rifle Association;

136 (4) Any handgun training or safety course or class conducted
137 by any branch of the United States Military, Reserve or National
138 Guard or proof of other handgun qualification received while
139 serving in any branch of the United States Military, Reserve or
140 National Guard.

141 A photocopy of a certificate of completion of any of the
142 courses or classes or an affidavit from the instructor, school,
143 club, organization or group that conducted or taught the course
144 or class attesting to the successful completion of the course or
145 class by the applicant or a copy of any document which shows
146 successful completion of the course or class is evidence of
147 qualification under this section.

148 (e) All concealed weapons license applications must be
149 notarized by a notary public duly licensed under article four,
150 chapter twenty-nine of this code. Falsification of any portion of
151 the application constitutes false swearing and is punishable
152 under the provisions of section two, article five, chapter sixty-
153 one of this code.

154 (f) The sheriff shall issue a license unless he or she
155 determines that the application is incomplete, that it contains

156 statements that are materially false or incorrect or that applicant
157 otherwise does not meet the requirements set forth in this
158 section. The sheriff shall issue, reissue or deny the license within
159 forty-five days after the application is filed if all required
160 background checks authorized by this section are completed.

161 (g) Before any approved license is issued or is effective, the
162 applicant shall pay to the sheriff a fee in the amount of \$25
163 which the sheriff shall forward to the Superintendent of the West
164 Virginia State Police within thirty days of receipt. The license is
165 valid for five years throughout the state, unless sooner revoked.

166 (h) Each license shall contain the full name and address of
167 the licensee and a space upon which the signature of the licensee
168 shall be signed with pen and ink. The issuing sheriff shall sign
169 and attach his or her seal to all license cards. The sheriff shall
170 provide to each new licensee a duplicate license card, in size
171 similar to other state identification cards and licenses, suitable
172 for carrying in a wallet, and the license card is considered a
173 license for the purposes of this section.

174 (i) The Superintendent of the West Virginia State Police
175 shall prepare uniform applications for licenses and license cards
176 showing that the license has been granted and shall do any other
177 act required to be done to protect the state and see to the
178 enforcement of this section.

179 (j) If an application is denied, the specific reasons for the
180 denial shall be stated by the sheriff denying the application. Any
181 person denied a license may file, in the circuit court of the
182 county in which the application was made, a petition seeking
183 review of the denial. The petition shall be filed within thirty days
184 of the denial. The court shall then determine whether the
185 applicant is entitled to the issuance of a license under the criteria
186 set forth in this section. The applicant may be represented by

187 counsel, but in no case is the court required to appoint counsel
188 for an applicant. The final order of the court shall include the
189 court's findings of fact and conclusions of law. If the final order
190 upholds the denial, the applicant may file an appeal in
191 accordance with the Rules of Appellate Procedure of the
192 Supreme Court of Appeals.

193 (k) If a license is lost or destroyed, the person to whom the
194 license was issued may obtain a duplicate or substitute license
195 for a fee of \$5 by filing a notarized statement with the sheriff
196 indicating that the license has been lost or destroyed.

197 (l) Whenever any person after applying for and receiving a
198 concealed handgun license moves from the address named in the
199 application to another county within the state, the license
200 remains valid for the remainder of the five years: *Provided*, That
201 the licensee within twenty days thereafter notifies the sheriff in
202 the new county of residence in writing of the old and new
203 addresses.

204 (m) The sheriff shall, immediately after the license is
205 granted as aforesaid, furnish the Superintendent of the West
206 Virginia State Police a certified copy of the approved
207 application. The sheriff shall furnish to the Superintendent of the
208 West Virginia State Police at any time so requested a certified
209 list of all licenses issued in the county. The Superintendent of the
210 West Virginia State Police shall maintain a registry of all
211 persons who have been issued concealed weapons licenses.

212 (n) Except when subject to an exception under section six,
213 article seven of this chapter, all licensees shall carry with them
214 a state-issued photo identification card with the concealed
215 weapons license whenever the licensee is carrying a concealed
216 weapon. Any licensee who, in violation of this subsection, fails
217 to have in his or her possession a state-issued photo

218 identification card and a current concealed weapons license
219 while carrying a concealed weapon is guilty of a misdemeanor
220 and, upon conviction thereof, shall be fined not less than \$50 or
221 more than \$200 for each offense.

222 (o) The sheriff shall deny any application or revoke any
223 existing license upon determination that any of the licensing
224 application requirements established in this section have been
225 violated by the licensee.

226 (p) A person who is engaged in the receipt, review or in the
227 issuance or revocation of a concealed weapon license does not
228 incur any civil liability as the result of the lawful performance of
229 his or her duties under this article.

230 (q) Notwithstanding the provisions of subsection (a) of this
231 section, with respect to application by a former law-enforcement
232 officer honorably retired from agencies governed by article
233 fourteen, chapter seven of this code; article fourteen, chapter
234 eight of this code; article two, chapter fifteen of this code; and
235 article seven, chapter twenty of this code, an honorably retired
236 officer is exempt from payment of fees and costs as otherwise
237 required by this section. All other application and background
238 check requirements set forth in this shall be applicable to these
239 applicants.

240 (r) Except as restricted or prohibited by the provisions of this
241 article or as otherwise prohibited by law, the issuance of a
242 concealed weapon permit issued in accordance with the
243 provisions of this section authorizes the holder of the permit to
244 carry a concealed pistol or revolver on the lands or waters of this
245 state.

CHAPTER 22

**(Com. Sub. for H. B. 4360 - By Delegates Guthrie,
L. Phillips, Poore, Sponaugle, Young, Skinner,
Fragale, Skaff and Caputo)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §46A-2-128 of the Code of West Virginia, 1931, as amended, relating to consumer credit protection generally; and including additional conduct that constitutes unfair or unconscionable conduct when collecting or attempting to collect a debt.

Be it enacted by the Legislature of West Virginia:

That §46A-2-128 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-128. Unfair or unconscionable means.

1 No debt collector may use unfair or unconscionable means
2 to collect or attempt to collect any claim. Without limiting the
3 general application of the foregoing, the following conduct is
4 deemed to violate this section:

5 (a) The seeking or obtaining of any written statement or
6 acknowledgment in any form that specifies that a consumer's
7 obligation is one incurred for necessities of life where the
8 original obligation was not in fact incurred for such necessities;

9 (b) The seeking or obtaining of any written statement or
10 acknowledgment in any form containing an affirmation of any
11 obligation by a consumer who has been declared bankrupt,
12 without clearly disclosing the nature and consequences of such
13 affirmation and the fact that the consumer is not legally
14 obligated to make such affirmation;

15 (c) The collection or the attempt to collect from the
16 consumer all or any part of the debt collector's fee or charge for
17 services rendered: *Provided*, That attorney's fees, court costs and
18 other reasonable collection costs and charges necessary for the
19 collection of any amount due upon delinquent educational loans
20 made by any institution of higher education within this state may
21 be recovered when the terms of the obligation so provide.
22 Recovery of attorney's fees and collection costs may not exceed
23 thirty-three and one-third percent of the amount due and owing
24 to any such institution: *Provided, however*, That nothing
25 contained in this subsection shall be construed to limit or
26 prohibit any institution of higher education from paying
27 additional attorney fees and collection costs as long as such
28 additional attorney fees and collection costs do not exceed an
29 amount equal to five percent of the amount of the debt actually
30 recovered and such additional attorney fees and collection costs
31 are deducted or paid from the amount of the debt recovered for
32 the institution or paid from other funds available to the
33 institution;

34 (d) The collection of or the attempt to collect any interest or
35 other charge, fee or expense incidental to the principal obligation
36 unless such interest or incidental fee, charge or expense is
37 expressly authorized by the agreement creating the obligation
38 and by statute;

39 (e) Any communication with a consumer whenever it
40 appears that the consumer is represented by an attorney and the
41 attorney's name and address are known, or could be easily
42 ascertained, unless the attorney fails to answer correspondence,

43 return phone calls or discuss the obligation in question or unless
44 the attorney consents to direct communication; and

45 (f) When the debt is beyond the statute of limitations for
46 filing a legal action for collection, failing to provide the
47 following disclosure informing the consumer in its initial written
48 communication with such consumer that:

49 (1) When collecting on a debt that is not past the date for
50 obsolescence provided for in Section 605(a) of the Fair Credit
51 Reporting Act, 15 U. S. C. 1681c: “The law limits how long you
52 can be sued on a debt. Because of the age of your debt, (INSERT
53 OWNER NAME) cannot sue you for it. If you do not pay the
54 debt, (INSERT OWNER NAME) may report or continue to
55 report it to the credit reporting agencies as unpaid”; and

56 (2) When collecting on debt that is past the date for
57 obsolescence provided for in Section 605(a) of the Fair Credit
58 Reporting Act, 15 U. S. C. 1681c: “The law limits how long you
59 can be sued on a debt. Because of the age of your debt, (INSERT
60 OWNER NAME) cannot sue you for it and (INSERT OWNER
61 NAME) cannot report it to any credit reporting agencies.”

CHAPTER 23

**(Com. Sub. for H. B. 4208 - By Delegates Fleischauer,
Barill, Marshall, Barker, Perdue, Kinsey, Ellem,
Pasdon, Hunt, Marcum and Border)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend and reenact §60A-1-101 of the Code of West
Virginia, 1931, as amended; to amend and reenact §60A-2-204;

§60A-2-206, §60A-2-208, §60A-2-210 and §60A-2-212 of said code; and to amend and reenact §60A-3-308 of said code, all relating generally to controlled substances; modifying the lists of scheduled controlled drugs; limiting the refills of hydrocodone in schedule III; making tramadol hydrochloride a schedule IV controlled substance; adding certain synthetic drugs to the list of scheduled controlled substances; modifying and including definitions; and modifying manner in which buprenorphine and naloxone may be prescribed.

Be it enacted by the Legislature of West Virginia:

That §60A-1-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §60A-2-204, §60A-2-206, §60A-2-208, §60A-2-210 and §60A-2-212 of said code be amended and reenacted; and that §60A-3-308 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. DEFINITIONS.

§60A-1-101. Definitions.

1 As used in this act:

2 (a) "Administer" means the direct application of a controlled
3 substance whether by injection, inhalation, ingestion or any other
4 means to the body of a patient or research subject by:

5 (1) A practitioner (or, in his or her presence, by his or her
6 authorized agent); or

7 (2) The patient or research subject at the direction and in the
8 presence of the practitioner.

9 (b) "Agent" means an authorized person who acts on behalf
10 of or at the direction of a manufacturer, distributor or dispenser.
11 It does not include a common or contract carrier, public
12 warehouseman or employee of the carrier or warehouseman.

13 (c) "Analogue" means a substance that, in relation to a
14 controlled substance, has a substantially similar chemical
15 structure.

16 (d) "Bureau" means the "Bureau of Narcotics and Dangerous
17 Drugs, United States Department of Justice" or its successor
18 agency.

19 (e) "Controlled substance" means a drug, substance or
20 immediate precursor in Schedules I through V of article two of
21 this chapter.

22 (f) "Counterfeit substance" means a controlled substance
23 which, or the container or labeling of which, without
24 authorization, bears the trademark, trade name or other
25 identifying mark, imprint, number or device, or any likeness
26 thereof, of a manufacturer, distributor or dispenser other than the
27 person who in fact manufactured, distributed or dispensed the
28 substance.

29 (g) "Imitation controlled substance" means: (1) A controlled
30 substance which is falsely represented to be a different
31 controlled substance; (2) a drug or substance which is not a
32 controlled substance but which is falsely represented to be a
33 controlled substance; or (3) a controlled substance or other drug
34 or substance or a combination thereof which is shaped, sized,
35 colored, marked, imprinted, numbered, labeled, packaged,
36 distributed or priced so as to cause a reasonable person to believe
37 that it is a controlled substance.

38 (h) "Deliver" or "delivery" means the actual, constructive or
39 attempted transfer from one person to another of: (1) A
40 controlled substance, whether or not there is an agency
41 relationship; (2) a counterfeit substance; or (3) an imitation
42 controlled substance.

43 (i) "Dispense" means to deliver a controlled substance to an
44 ultimate user or research subject by or pursuant to the lawful
45 order of a practitioner, including the prescribing, administering,
46 packaging, labeling or compounding necessary to prepare the
47 substance for that delivery.

48 (j) "Dispenser" means a practitioner who dispenses.

49 (k) "Distribute" means to deliver, other than by
50 administering or dispensing, a controlled substance, a counterfeit
51 substance or an imitation controlled substance.

52 (l) "Distributor" means a person who distributes.

53 (m) "Drug" means: (1) Substances recognized as drugs in
54 the official "United States Pharmacopoeia, official Homeopathic
55 Pharmacopoeia of the United States or official National
56 Formulary", or any supplement to any of them; (2) substances
57 intended for use in the diagnosis, cure, mitigation, treatment or
58 prevention of disease in man or animals; (3) substances (other
59 than food) intended to affect the structure or any function of the
60 body of man or animals; and (4) substances intended for use as
61 a component of any article specified in subdivision (1), (2) or (3)
62 of this subdivision. It does not include devices or their
63 components, parts or accessories.

64 (n) "Immediate derivative" means a substance which is the
65 principal compound or any analogue of the parent compound
66 manufactured from a known controlled substance primarily for
67 use and which has equal or similar pharmacologic activity as the
68 parent compound which is necessary to prevent, curtail or limit
69 manufacture.

70 (o) "Immediate precursor" means a substance which is the
71 principal compound commonly used or produced primarily for
72 use and which is an immediate chemical intermediary used or
73 likely to be used in the manufacture of a controlled substance,
74 the control of which is necessary to prevent, curtail or limit
75 manufacture.

76 (p) "Manufacture" means the production, preparation,
77 propagation, compounding, conversion or processing of a
78 controlled substance, either directly or indirectly or by extraction
79 from substances of natural origin, or independently by means of
80 chemical synthesis, or by a combination of extraction and
81 chemical synthesis, and includes any packaging or repackaging
82 of the substance or labeling or relabeling of its container, except
83 that this term does not include the preparation, compounding,
84 packaging or labeling of a controlled substance:

85 (1) By a practitioner as an incident to his or her
86 administering or dispensing of a controlled substance in the
87 course of his or her professional practice; or

88 (2) By a practitioner, or by his or her authorized agent under
89 his or her supervision, for the purpose of, or as an incident to,
90 research, teaching or chemical analysis and not for sale.

91 (q) "Marijuana" means all parts of the plant "Cannabis sativa
92 L.", whether growing or not; the seeds thereof; the resin
93 extracted from any part of the plant; and every compound,
94 manufacture, salt, immediate derivative, mixture or preparation
95 of the plant, its seeds or resin. It does not include the mature
96 stalks of the plant, fiber produced from the stalks, oil or cake
97 made from the seeds of the plant, any other compound,
98 manufacture, salt, immediate derivative, mixture or preparation
99 of the mature stalks (except the resin extracted therefrom), fiber,
100 oil or cake, or the sterilized seed of the plant which is incapable
101 of germination.

102 (r) "Narcotic drug" means any of the following, whether
103 produced directly or indirectly by extraction from substances of
104 vegetable origin or independently by means of chemical
105 synthesis, or by a combination of extraction and chemical
106 synthesis:

107 (1) Opium and opiate and any salt, compound, immediate
108 derivative or preparation of opium or opiate.

109 (2) Any salt, compound, isomer, immediate derivative or
110 preparation thereof which is chemically equivalent or identical
111 with any of the substances referred to in paragraph (1) of this
112 subdivision, but not including the isoquinoline alkaloids of
113 opium.

114 (3) Opium poppy and poppy straw.

115 (4) Coca leaves and any salt, compound, immediate
116 derivative or preparation of coca leaves and any salt, compound,
117 isomer, immediate derivative or preparation thereof which is
118 chemically equivalent or identical with any of these substances,
119 but not including decocainized coca leaves or extractions of coca
120 leaves which do not contain cocaine or ecgonine.

121 (s) "Opiate" means any substance having an
122 addiction-forming or addiction-sustaining liability similar to
123 morphine or being capable of conversion into a drug having
124 addiction-forming or addiction-sustaining liability. It does not
125 include, unless specifically designated as controlled under
126 section two hundred one, article two of this chapter, the
127 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
128 salts (dextromethorphan). It does not include its racemic and
129 levorotatory forms.

130 (t) "Opium poppy" means the plant of the species "Papaver
131 somniferum L.", except its seeds.

132 (u) "Person" means individual, corporation, government or
133 governmental subdivision or agency, business trust, estate, trust,
134 partnership or association, or any other legal entity.

135 (v) "Placebo" means an inert medicament or preparation
136 administered or dispensed for its psychological effect, to satisfy
137 a patient or research subject or to act as a control in experimental
138 series.

139 (w) "Poppy straw" means all parts, except the seeds, of the
140 opium poppy after mowing.

141 (x) “Practitioner” means:

142 (1) A physician, dentist, veterinarian, scientific investigator
143 or other person licensed, registered or otherwise permitted to
144 distribute, dispense, conduct research with respect to, or to
145 administer a controlled substance in the course of professional
146 practice or research in this state.

147 (2) A pharmacy, hospital or other institution licensed,
148 registered or otherwise permitted to distribute, dispense, conduct
149 research with respect to, or to administer a controlled substance
150 in the course of professional practice or research in this state.

151 (y) “Production” includes the manufacture, planting,
152 cultivation, growing or harvesting of a controlled substance.

153 (z) “State”, when applied to a part of the United States,
154 includes any state, district, commonwealth, territory, insular
155 possession thereof and any area subject to the legal authority of
156 the United States of America.

157 (aa) “Ultimate user” means a person who lawfully possesses
158 a controlled substance for his or her own use or for the use of a
159 member of his or her household or for administering to an
160 animal owned by him or her or by a member of his or her
161 household.

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-204. Schedule I.

1 (a) Schedule I shall consist of the drugs and other
2 substances, by whatever official name, common or usual name,
3 chemical name, or brand name designated, listed in this section.

4 (b) *Opiates*. — Unless specifically excepted or unless listed
5 in another schedule, any of the following opiates, including their
6 isomers, esters, ethers, salts and salts of isomers, esters and
7 ethers, whenever the existence of such isomers, esters, ethers and

8 salts is possible within the specific chemical designation (for
9 purposes of subdivision (34) of this subsection only, the term
10 isomer includes the optical and geometric isomers):

11 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-
12 phenethyl)-4-piperidinyl]-N-phenylacetamide);

13 (2) Acetylmethadol;

14 (3) Allylprodine;

15 (4) Alphacetylmethadol (except levoalphacetylmethadol also
16 known as levo-alpha-acetylmethadol, levomethadyl acetate, or
17 LAAM);

18 (5) Alphameprodine;

19 (6) Alphamethadol;

20 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
21 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-
22 4-(--propanilido) piperidine);

23 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)
24 ethyl-4-piperidinyl]-N-phenylpropanamide);

25 (9) Benzethidine;

26 (10) Betacetylmethadol;

27 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)
28 -4-piperidinyl]-N-phenylpropanamide);

29 (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-
30 hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropa
31 namide);

32 (13) Betameprodine;

33 (14) Betamethadol;

- 34 (15) Betaprodine;
- 35 (16) Clonitazene;
- 36 (17) Dextromoramide;
- 37 (18) Diampromide;
- 38 (19) Diethylthiambutene;
- 39 (20) Difenoxylin;
- 40 (21) Dimenoxadol;
- 41 (22) Dimepseptanol;
- 42 (23) Dimethylthiambutene;
- 43 (24) Dioxaphetyl butyrate;
- 44 (25) Dipipanone;
- 45 (26) Ethylmethylthiambutene;
- 46 (27) Etonitazene;
- 47 (28) Etoxyridine;
- 48 (29) Furethidine;
- 49 (30) Hydroxypethidine;
- 50 (31) Ketobemidone;
- 51 (32) Levomoramide;
- 52 (33) Levophenacetylmorphan;
- 53 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
54 piperidyl]-N-phenylpropanamide);
- 55 (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)
56 ethyl-4- piperidinyl]-N-phenylpropanamide);

- 57 (36) Morpheridine;
- 58 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 59 (38) Noracymethadol;
- 60 (39) Norlevorphanol;
- 61 (40) Normethadone;
- 62 (41) Norpipanone;
- 63 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
64 phenethyl)-4-piperidinyl] propanamide);
- 65 (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-
66 acetoxypiperidine);
- 67 (44) Phenadoxone;
- 68 (45) Phenampromide;
- 69 (46) Phenomorphan;
- 70 (47) Phenoperidine;
- 71 (48) Piritramide;
- 72 (49) Proheptazine;
- 73 (50) Properidine;
- 74 (51) Propiram;
- 75 (52) Racemoramide;
- 76 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-
77 piperidinyl]-propanamide);
- 78 (54) Tilidine;

79 (55) Trimeperidine.

80 (c) *Opium derivatives*. — Unless specifically excepted or
81 unless listed in another schedule, any of the following opium
82 immediate derivatives, its salts, isomers and salts of isomers
83 whenever the existence of such salts, isomers and salts of
84 isomers is possible within the specific chemical designation:

85 (1) Acetorphine;

86 (2) Acetyldihydrocodeine;

87 (3) Benzylmorphine;

88 (4) Codeine methylbromide;

89 (5) Codeine-N-Oxide;

90 (6) Cyprenorphine;

91 (7) Desomorphine;

92 (8) Dihydromorphine;

93 (9) Drotebanol;

94 (10) Etorphine (except HCl Salt);

95 (11) Heroin;

96 (12) Hydromorphinol;

97 (13) Methyldesorphine;

98 (14) Methyldihydromorphine;

99 (15) Morphine methylbromide;

100 (16) Morphine methylsulfonate;

101 (17) Morphine-N-Oxide;

102 (18) Myrophine;

103 (19) Nicocodeine;

104 (20) Nicomorphine;

105 (21) Normorphine;

106 (22) Pholcodine;

107 (23) Thebacon.

108 (d) *Hallucinogenic substances.* — Unless specifically
109 excepted or unless listed in another schedule, any material,
110 compound, mixture or preparation, which contains any quantity
111 of the following hallucinogenic substances, or which contains
112 any of its salts, isomers and salts of isomers, whenever the
113 existence of such salts, isomers, and salts of isomers is possible
114 within the specific chemical designation (for purposes of this
115 subsection only, the term “isomer” includes the optical, position
116 and geometric isomers):

117 (1) Alpha-ethyltryptamine; some trade or other names:
118 etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine;
119 3-(2-aminobutyl) indole; alpha-ET; and AET;

120 (2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or
121 other names: 4-bromo-2,5-dimethoxy-alpha-
122 methylphenethylamine; 4-bromo- 2,5-DMA;

123 (3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or
124 other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane;
125 alpha- desmethyl DOB; 2C-B, Nexus;

126 (4) 2,5-dimethoxyamphetamine; some trade or other names:
127 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

128 (5) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other
129 names: DOET;

- 130 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other
131 name: 2C-T-7);
- 132 (7) 4-methoxyamphetamine; some trade or other names:
133 4 - m e t h o x y - a l p h a - m e t h y l p h e n e t h y l a m i n e ;
134 paramethoxyamphetamine; PMA;
- 135 (8) 5-methoxy-3, 4-methylenedioxy-amphetamine;
- 136 (9) 4-methyl-2,5-dimethoxy-amphetamine; some trade and
137 other names: 4 - m e t h y l - 2 , 5 - d i m e t h o x y - a l p h a -
138 methylphenethylamine; “DOM”; and “STP”;
- 139 (10) 3,4-methylenedioxy amphetamine;
- 140 (11) 3,4-methylenedioxymethamphetamine (MDMA);
- 141 (12) 3,4-methylenedioxy-N-ethylamphetamine (also known
142 as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine,
143 N-ethyl MDA, MDE, MDEA);
- 144 (13) N-hydroxy-3,4-methylenedioxyamphetamine (also
145 known as – hydroxy-alpha-methyl-3,4 (methylenedioxy)
146 phenethylamine, and – hydroxy MDA);
- 147 (14) 3,4,5-trimethoxy amphetamine;
- 148 (15) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
- 149 (16) Alpha-methyltryptamine (other name: AMT);
- 150 (17) Bufotenine; some trade and other names:
151 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethyla
152 minoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-
153 dimethyltryptamine; mappine;
- 154 (18) Diethyltryptamine; some trade and other names: N,
155 N-Diethyltryptamine; DET;

- 156 (19) Dimethyltryptamine; some trade or other names: DMT;
- 157 (20) 5-Methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
- 158 (21) Ibogaine; some trade and other names: 7-Ethyl-6, 6
159 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
160 pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;
- 161 (22) Lysergic acid diethylamide;
- 162 (23) Marihuana;
- 163 (24) Mescaline;
- 164 (25) Parahexyl-7374; some trade or other names: 3-Hexyl
165 -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo
166 [b,d] pyran; Synhexyl;
- 167 (26) Peyote; meaning all parts of the plant presently
168 classified botanically as *Lophophora williamsii* Lemaire,
169 whether growing or not, the seeds thereof, any extract from any
170 part of such plant, and every compound, manufacture, salts,
171 immediate derivative, mixture or preparation of such plant, its
172 seeds or extracts;
- 173 (27) N-ethyl-3-piperidyl benzilate;
- 174 (28) N-methyl-3-piperidyl benzilate;
- 175 (29) Psilocybin;
- 176 (30) Psilocyn;
- 177 (31) Tetrahydrocannabinols; synthetic equivalents of the
178 substances contained in the plant, or in the resinous extractives
179 of *Cannabis*, sp. and/or synthetic substances, immediate
180 derivatives and their isomers with similar chemical structure and
181 pharmacological activity such as the following:

182 Delta-1 Cis or trans tetrahydrocannabinol, and their optical
183 isomers;

184 Delta-6 Cis or trans tetrahydrocannabinol, and their optical
185 isomers;

186 Delta-3,4 Cis or trans tetrahydrocannabinol, and its optical
187 isomers;

188 (Since nomenclature of these substances is not
189 internationally standardized, compounds of these structures,
190 regardless of numerical designation of atomic positions
191 covered.)

192 (32) Ethylamine analog of phencyclidine; some trade or
193 other names: N-ethyl-1-phenylcyclohexylamine,
194 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)
195 ethylamine, cyclohexamine, PCE;

196 (33) Pyrrolidine analog of phencyclidine; some trade or
197 other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

198 (34) Thiophene analog of phencyclidine; some trade or other
199 names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog
200 of phencyclidine; TPCP, TCP;

201 (35) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other
202 names: TCPy.

203 (36) 4-methylmethcathinone (Mephedrone);

204 (37) 3,4-methylenedioxypropylamphetamine (MDPV);

205 (38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

206 (39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

207 (40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

- 208 (41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- 209 (42) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine
210 (2C-T-2);
- 211 (43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine
212 (2C-T-4);
- 213 (44) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 214 (45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
- 215 (46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine
216 (2C-P);
- 217 (47) 3,4-Methylenedioxy-N-methylcathinone (Methylone);
- 218 (48) (2,5-dimethoxy-4-(n)-propyltghiophenethylamine
219 (2C-T-7, itsoptical isomers, salts and salts of isomers);
- 220 (49) 5-methoxy-N,N-dimethyltryptamine some trade or other
221 names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole;
222 5-MeO-DMT(5-MeO-DMT);
- 223 (50) Alpha-methyltryptamine (other name: AMT);
- 224 (51) 5-methoxy-N,N-diisopropyltryptamine (other name:
225 5-MeO-DIPT);
- 226 (52) Synthetic Cannabinoids as follows:
- 227 (A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-
228 (2-methyloctan-2-yl)phenol {also known as CP 47,497 and
229 homologues};
- 230 (B) rel-2-[(1S,3R)-3-hydroxycyclohexyl]
231 -5-(2-methylnonan-2-yl)phenol {also known as CP 47,497-C8
232 homolog};

- 233 (C) [(6*aR*)-9-(hydroxymethyl)-6,
234 6-dimethyl-3-(2-methyloctan-2-yl)-6*a*, 7,10,10*a*-
235 tetrahydrobenzo[*c*]chromen-1-ol] {also known as HU-210};
- 236 (D) (dexanabinol, (6*aS*,10*aS*)-9-(hydroxymethyl)-
237 6,6-dimethyl-3-(2-methyloctan-2-yl)-6*a*,7,10,10*a*-tetrahydrobe
238 nzol[*c*]chromen-1-ol) {also known as HU-211};
- 239 (E) 1-Pentyl-3-(1-naphthoyl)indole {also known as
240 JWH-018};
- 241 (F) 1-Butyl-3-(1-naphthoyl)indole {also known as
242 JWH-073};
- 243 (G) (2-methyl-1-propyl-1*H*-indol-3-yl)-1-
244 naphthalenyl-methanone {also known as JWH-015};
- 245 (H) (1-hexyl-1*H*-indol-3-yl)-1-naphthalenyl-methanone
246 {also known as JWH-019};
- 247 (I) [1-[2-(4-morpholinyl) ethyl] -1*H*-indol-3-yl]-
248 1-naphthalenyl-methanone {also known as JWH-200};
- 249 (J) 1-(1-pentyl-1*H*-indol-3-yl)-2-(3-hydroxyphenyl)-
250 ethanone {also known as JWH-250};
- 251 (K) 2-(1*S*, 2*S*, 5*S*)-5-hydroxy-2-
252 (3-hydroxypropyl)cyclohexyl)-5-(2-methyloctan-2-yl)phenol
253 {also known as CP 55,940};
- 254 (L) (4-methyl-1-naphthalenyl) (1-pentyl-1*H*-indol-3-yl)
255 -methanone {also known as JWH-122};
- 256 (M) (4-methyl-1-naphthalenyl) (1-pentyl-1*H*-indol-3-yl)
257 -methanone {also known as JWH-398};
- 258 (N) (4-methoxyphenyl)(1-pentyl-1*H*-indol-3-yl)methanone
259 {also known as RCS-4};

- 260 (O) 1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)
261 -2-(2-methoxyphenyl) ethanone {also known as RCS-8};
- 262 (P) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);
- 263 (Q) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);
264 and
- 265 (R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694).
- 266 (53) Synthetic cannabinoids or any material, compound,
267 mixture or preparation which contains any quantity of the
268 following substances, including their analogues, congeners,
269 homologues, isomers, salts and salts of analogues, congeners,
270 homologues and isomers, as follows:
- 271 (A) CP 47,497 AND homologues, 2-[(1R,3S)-3-
272 Hydroxycyclohexyl]-5-(2-methyloctan-2-YL)phenol);
- 273 (B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-
274 6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10,
275 10A-tetrahydrobenzo[C]chromen-1-OL)];
- 276 (C) HU-211, (dexanabinol, (6AS,10AS)-9-
277 (hydroxymethyl)-6,6-Dimethyl-3-(2-
278 methyloctan-2-YL)-6A,7,10,10atetrahydrobenzo[
279 C]chromen-1-OL);
- 280 (D) JWH-018, 1-pentyl-3-(1-naphthoyl)indole;
- 281 (E) JWH-019, 1-hexyl-3-(1-naphthoyl)indole;
- 282 (F) JWH-073, 1-butyl-3-(1-naphthoyl)indole;
- 283 (G) JWH-200, (1-(2-morpholin-4-ylethyl)indol-3-yl)-
284 Naphthalen-1-ylmethanone;
- 285 (H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl)indole.

286 (54) Synthetic cannabinoids including any material,
287 compound, mixture or preparation that is not listed as a
288 controlled substance in Schedule I through V, is not a federal
289 Food and Drug Administration approved drug or used within
290 legitimate and approved medical research and which contains
291 any quantity of the following substances, their salts, isomers,
292 whether optical positional or geometric, analogues, homologues
293 and salts of isomers, analogues and homologues, unless
294 specifically exempted, whenever the existence of these salts,
295 isomers, analogues, homologues and salts of isomers, analogues
296 and homologues if possible within the specific chemical
297 designation:

298 (A) Tetrahydrocannabinols meaning tetrahydrocannabinols
299 which are naturally contained in a plant of the genus cannabis as
300 well as synthetic equivalents of the substances contained in the
301 plant or in the resinous extractives of cannabis or synthetic
302 substances, derivatives and their isomers with analogous
303 chemical structure and or pharmacological activity such as the
304 following:

305 (i) DELTA-1 CIS OR trans tetrahydrocannabinol and their
306 optical isomers.

307 (ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their
308 optical isomers.

309 (iii) DELTA-3,4 CIS or their trans tetrahydrocannabinol and
310 their optical isomers.

311 (B) Naphthoylindoles or any compound containing a 3-(-1-
312 Naphthoyl) indole structure with substitution at the nitrogen atom
313 of the indole ring whether or not further substituted in the indole
314 ring to any extent and whether or not substituted in the naphthyl
315 ring to any extent. This shall include the following:

316 (i) JWH 015;

317 (ii) JWH 018;

318 (iii) JWH 019;

319 (iv) JWH 073;

320 (v) JWH 081;

321 (vi) JWH 122;

322 (vii) JWH 200;

323 (viii) JWH 210;

324 (ix) JWH 398;

325 (x) AM 2201;

326 (xi) WIN 55,212.

327 (55) Naphylmethylindoles or any compound containing a
328 1indol-3-yl-(1-naphthyl) methane structure with a substitution at
329 the nitrogen atom of the indole ring whether or not further
330 substituted in the indole ring to any extent and whether or not
331 substituted in the naphthyl ring to any extent. This shall include,
332 but not be limited to, JWH 175 and JWH 184.

333 (56) Naphthoylpyrroles or any compound containing a 3-(1-
334 Naphthoyl) pyrrole structure with substitution at the nitrogen
335 atom of the pyrrole ring whether or not further substituted in the
336 pyrrole ring to any extent and whether or not substituted in the
337 naphthyl ring to any extent. This shall include, but not be
338 limited to, JWH 147 and JWH 307.

339 (57) Naphthylmethylindenes or any compound containing a
340 Naphthylideneindene structure with substitution at the 3-
341 position of the indene ring whether or not further substituted in
342 the indene ring to any extent and whether or not substituted in

343 the naphthyl ring to any extent. This shall include, but not be
344 limited to, JWH 176.

345 (58) Phenylacetylindoles or any compound containing a 3-
346 Phenylacetylindole structure with substitution at the nitrogen
347 atom of the indole ring whether or not further substituted in the
348 indole ring to any extent and whether or not substituted in the
349 phenyl ring to any extent. This shall include the following:

350 (A) RCS-8, SR-18 OR BTM-8;

351 (B) JWH 250;

352 (C) JWH 203;

353 (D) JWH 251;

354 (E) JWH 302.

355 (59) Cyclohexylphenols or any compound containing a 2-(3-
356 hydroxycyclohexyl) phenol structure with a substitution at the
357 5-position of the phenolic ring whether or not substituted in the
358 cyclohexyl ring to any extent. This shall include the following:

359 (A) CP 47,497 and its homologues and analogs;

360 (B) Cannabicyclohexanol;

361 (C) CP 55,940.

362 (60) Benzoylindoles or any compound containing a
363 3-(benzoyl) indole structure with substitution at the nitrogen
364 atom of the indole ring whether or not further substituted in the
365 indole ring to any extent and whether or not substituted in the
366 phenyl ring to any extent. This shall include the following:

367 (A) AM 694;

368 (B) Pravadoline WIN 48,098;

369 (C) RCS 4;

370 (D) AM 679.

371 (61) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo
372 [1,2,3-DE]-1,4-benzoxazin-6-YL]-1-naphthalenymethanone. This
373 shall include WIN 55,212-2.

374 (62) Dibenzopyrans or any compound containing a
375 11-hydroxydelta 8-tetrahydrocannabinol structure with
376 substitution on the 3-pentyl group. This shall include HU-210,
377 HU-211, JWH 051 and JWH 133.

378 (63) Adamantoylindoles or any compound containing a
379 3-(-1- Adamantoyl) indole structure with substitution at the
380 nitrogen atom of the indole ring whether or not further
381 substituted in the adamantoyl ring system to any extent. This
382 shall include AM1248.

383 (64) Tetramethylcyclopropylindoles or any compound
384 containing A 3-tetramethylcyclopropylindole structure with
385 substitution at the nitrogen atom of the indole ring whether or
386 not further substituted in the indole ring to any extent and
387 whether or not substituted in the tetramethylcyclopropyl ring to
388 any extent. This shall include UR-144 and XLR-11.

389 (65) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide.
390 This shall include AKB48.

391 (66) Any other synthetic chemical compound that is a
392 Cannabinoid receptor type 1 agonist as demonstrated by binding
393 studies and functional assays that is not listed in Schedules II,
394 III, IV and V, not federal Food and Drug Administration
395 approved drug or used within legitimate, approved medical
396 research. Since nomenclature of these substances is not
397 internationally standardized, any immediate precursor or
398 immediate derivative of these substances shall be covered.

399 (e) *Depressants*. — Unless specifically excepted or unless
400 listed in another schedule, any material, compound, mixture, or
401 preparation which contains any quantity of the following
402 substances having a depressant effect on the central nervous
403 system, including its salts, isomers and salts of isomers
404 whenever the existence of such salts, isomers and salts of
405 isomers is possible within the specific chemical designation:

406 (1) Mecloqualone;

407 (2) Methaqualone.

408 (f) *Stimulants*. — Unless specifically excepted or unless
409 listed in another schedule, any material, compound, mixture, or
410 preparation which contains any quantity of the following
411 substances having a stimulant effect on the central nervous
412 system, including its salts, isomers and salts of isomers:

413 (1) Aminorex; some other names: aminoxaphen; 2-amino-5-
414 phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

415 (2) Cathinone; some trade or other names: 2-amino-
416 1-phenyl-1-propanone, alpha-aminopropiophenone,
417 2-aminopropiophenone and norephedrone;

418 (3) Fenethylline;

419 (4) Methcathinone, its immediate precursors and immediate
420 derivatives, its salts, optical isomers and salts of optical isomers;
421 some other names: (2-(methylamino)-propiofenone;
422 alpha-(methylamino)propiofenone; 2-(methylamino)-1-
423 phenylpropan-1-one; alpha-N-methylaminopropiophenone;
424 monomethylpropion; 3,4-methylenedioxypropylvalerone and/or
425 mephedrone; 3,4-methylenedioxypropylvalerone (MPVD);
426 ephedrone; N-methylcathinone; methylcathinone; AL-464;
427 AL-422; AL- 463 and UR1432;

428 (5) (+-) cis-4-methylaminorex; (+-)cis-4,5-dihydro-4-
429 methyl- 5-phenyl-2-oxazolamine);

430 (6) N-ethylamphetamine;

431 (7) N,N-dimethylamphetamine; also known as N,N-alpha-
432 trimethyl-benzeneethanamine; N,N-alpha-
433 trimethylphenethylamine.

434 (8) Alpha-pyrrolidinopentiophenone, also known as alpha-
435 PVP, optical isomers, salts and salts of isomers.

436 (g) Temporary listing of substances subject to emergency
437 scheduling. Any material, compound, mixture or preparation
438 which contains any quantity of the following substances:

439 (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide
440 (benzylfentanyl), its optical isomers, salts, and salts of isomers.

441 (2) N-[1-(2-thienyl)methyl-4-piperidyl]-phenylpropanamide
442 (thethylfentanyl), its optical isomers, salts and salts of isomers.

443 (3) N-benzylpiperazine, also known as BZP.

444 (h) The following controlled substances are included in
445 Schedule I:

446 (1) Synthetic Cathinones or any compound, except
447 bupropion or compounds listed under a different schedule, or
448 compounds used within legitimate and approved medical
449 research, structurally derived from 2- Aminopropan-1-one by
450 substitution at the 1-position with Monocyclic or fused
451 polycyclic ring systems, whether or not the compound is further
452 modified in any of the following ways:

453 (A) By substitution in the ring system to any extent with
454 alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide
455 Substituents whether or not further substituted in the ring system
456 by one or more other univalent substituents.

457 (B) By substitution at the 3-position with an acyclic alkyl
458 substituent.

459 (C) By substitution at the 2-amino nitrogen atom with alkyl,
460 dialkyl, benzyl or methoxybenzyl groups.

461 (D) By inclusion of the 2-amino nitrogen atom in a cyclic
462 structure.

463 (2) Any other synthetic chemical compound that is a
464 Cannabinoid receptor type 1 agonist as demonstrated by binding
465 studies and functional assays that is not listed in Schedules II,
466 III, IV and V, not federal Food and Drug Administration
467 approved drug or used within legitimate, approved medical
468 research.

§60A-2-206. Schedule II.

1 (a) Schedule II consists of the drugs and other substances, by
2 whatever official name, common or usual name, chemical name
3 or brand name designated, listed in this section.

4 (b) *Substances, vegetable origin or chemical synthesis.* —
5 Unless specifically excepted or unless listed in another schedule,
6 any of the following substances whether produced directly or
7 indirectly by extraction from substances of vegetable origin, or
8 independently by means of chemical synthesis, or by a
9 combination of extraction and chemical synthesis:

10 (1) Opium and opiate, and any salt, compound, derivative or
11 preparation of opium or opiate excluding apomorphine,
12 thebaine-derived butorphanol, dextrophan, nalbuphine,
13 nalmefene, naloxone and naltrexone, and their respective salts,
14 but including the following:

15 (A) Raw opium;

16 (B) Opium extracts;

17 (C) Opium fluid;

18 (D) Powdered opium;

- 19 (E) Granulated opium;
- 20 (F) Tincture of opium;
- 21 (G) Codeine;
- 22 (H) Dihydroetorphine;
- 23 (I) Ethylmorphine;
- 24 (J) Etorphine hydrochloride;
- 25 (K) Hydrocodone;
- 26 (L) Hydromorphone;
- 27 (M) Metopon;
- 28 (N) Morphine;
- 29 (O) Oripavine;
- 30 (P) Oxycodone;
- 31 (Q) Oxymorphone; and
- 32 (R) Thebaine;
- 33 (2) Any salt, compound, derivative or preparation thereof
34 which is chemically equivalent or identical with any of the
35 substances referred to in subdivision (1) of this subsection,
36 except that these substances shall not include the isoquinoline
37 alkaloids of opium;
- 38 (3) Opium poppy and poppy straw;
- 39 (4) Coca leaves and any salt, compound, derivative or
40 preparation of coca leaves (including cocaine and ecgonine and
41 their salts, isomers, derivatives and salts of isomers and
42 derivatives), and any salt, compound, derivative or preparation

43 thereof which is chemically equivalent or identical with any of
44 these substances, except that the substances shall not include
45 decocainized coca leaves or extractions of coca leaves, which
46 extractions do not contain cocaine or ecgonine;

47 (5) Concentrate of poppy straw (the crude extract of poppy
48 straw in either liquid, solid or powder form which contains the
49 phenanthrene alkaloids of the opium poppy).

50 (c) *Opiates*. — Unless specifically excepted or unless in
51 another schedule, any of the following opiates, including its
52 isomers, esters, ethers, salts and salts of isomers, esters and
53 ethers whenever the existence of such isomers, esters, ethers and
54 salts is possible within the specific chemical designation,
55 dextrophan and levopropoxyphene excepted:

56 (1) Alfentanil;

57 (2) Alphaprodine;

58 (3) Anileridine;

59 (4) Bezitramide;

60 (5) Bulk dextropropoxyphene (nondosage forms);

61 (6) Carfentanil;

62 (7) Dihydrocodeine;

63 (8) Diphenoxylate;

64 (9) Fentanyl;

65 (10) Isomethadone;

66 (11) Levo-alpha-acetylmethadol; some other names: levo-
67 alpha-acetylmethadol, levomethadyl acetate, LAAM;

68 (12) Levomethorphan;

- 69 (13) Levorphanol;
- 70 (14) Metazocine;
- 71 (15) Methadone;
- 72 (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,
73 4-diphenyl butane;
- 74 (17) Moramide-Intermediate, 2-methyl-3-morpholino-1,
75 1-diphenylpropane-carboxylic acid;
- 76 (18) Pethidine; (meperidine);
- 77 (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
78 phenylpiperidine;
- 79 (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-
80 4-carboxylate;
- 81 (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-
82 4-carboxylic acid;
- 83 (22) Phenazocine;
- 84 (23) Piminodine;
- 85 (24) Racemethorphan;
- 86 (25) Racemorphan;
- 87 (26) Remifentanil;
- 88 (27) Sufentanil; and
- 89 (28) Tapentadol.

90 (d) *Stimulants*. — Unless specifically excepted or unless
91 listed in another schedule, any material, compound, mixture or
92 preparation which contains any quantity of the following

93 substances having a stimulant effect on the central nervous
94 system:

95 (1) Amphetamine, its salts, optical isomers and salts of its
96 optical isomers;

97 (2) Methamphetamine, its salts, isomers and salts of its
98 isomers;

99 (3) Methylphenidate;

100 (4) Phenmetrazine and its salts; and

101 (5) Lisdexamfetamine.

102 (e) *Depressants*. — Unless specifically excepted or unless
103 listed in another schedule, any material, compound, mixture or
104 preparation which contains any quantity of the following
105 substances having a depressant effect on the central nervous
106 system, including its salts, isomers and salts of isomers
107 whenever the existence of such salts, isomers and salts of
108 isomers is possible within the specific chemical designation:

109 (1) Amobarbital;

110 (2) Glutethimide;

111 (3) Pentobarbital;

112 (4) Phencyclidine;

113 (5) Secobarbital.

114 (f) *Hallucinogenic substances*:

115 Nabilone: [Another name for nabilone: (+-)-trans-3-(1,
116 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6,
117 6-dimethyl-9H-dibenzo [b,d] pyran-9-one].

118 (g) *Immediate precursors.* — Unless specifically excepted
119 or unless listed in another schedule, any material, compound,
120 mixture, or preparation which contains any quantity of the
121 following substances:

122 (1) Immediate precursor to amphetamine and
123 methamphetamine:

124 (A) Phenylacetone;

125 (B) Some trade or other names: phenyl-2-propanone; P2P;
126 benzyl methyl ketone; methyl benzyl ketone;

127 (2) Immediate precursors to phencyclidine (PCP):

128 (A) 1-phenylcyclohexylamine; and

129 (B) 1-piperidinocyclohexanecarbonitrile (PCC).

130 (3) Immediate precursor to fentanyl: 4-anilino-N-
131 phenethyl-4-piperidine (ANPP).

§60A-2-208. Schedule III.

1 (a) Schedule III consists of the drugs and other substances,
2 by whatever official name, common or usual name, chemical
3 name or brand name designated, listed in this section.

4 (b) *Stimulants.* — Unless specifically excepted or unless
5 listed in another schedule, any material, compound, mixture or
6 preparation which contains any quantity of the following
7 substances having a stimulant effect on the central nervous
8 system, including its salts, isomers (whether optical, position or
9 geometric) and salts of such isomers whenever the existence of
10 the salts, isomers and salts of isomers is possible within the
11 specific chemical designation:

12 (1) Those compounds, mixtures or preparations in dosage
13 unit form containing any stimulant substances listed in Schedule

14 II which compounds, mixtures or preparations were listed on
15 August 25, 1971, as excepted compounds under 21 C.F.R.
16 §1308.32, and any other drug of the quantitative composition
17 shown in that list for those drugs or which is the same except
18 that it contains a lesser quantity of controlled substances;

19 (2) Benzphetamine;

20 (3) Chlorphentermine;

21 (4) Clortermine;

22 (5) Phendimetrazine.

23 (c) *Depressants*. — Unless specifically excepted or unless
24 listed in another schedule, any material, compound, mixture or
25 preparation which contains any quantity of the following
26 substances having a depressant effect on the central nervous
27 system:

28 (1) Any compound, mixture or preparation containing:

29 (A) Amobarbital;

30 (B) Secobarbital;

31 (C) Pentobarbital; or any salt of pentobarbital and one or
32 more other active medicinal ingredients which are not listed in
33 any schedule;

34 (2) Any suppository dosage form containing:

35 (A) Amobarbital;

36 (B) Secobarbital;

37 (C) Pentobarbital; or any salt of any of these drugs and
38 approved by the food and drug administration for marketing only
39 as a suppository;

- 40 (3) Any substance which contains any quantity of a
41 derivative of barbituric acid or any salt of barbituric acid;
- 42 (4) Aprobarbital;
- 43 (5) Butabarbital (secbutabarbital);
- 44 (6) Butalbital (including, but not limited to, Fioricet);
- 45 (7) Butobarbital (butethal);
- 46 (8) Chlorhexadol;
- 47 (9) Embutramide;
- 48 (10) Gamma Hydroxybutyric Acid preparations;
- 49 (11) Ketamine, its salts, isomers and salts of isomers [Some
50 other names for ketamine: (+-)-2-(2-chlorophenyl)-2-
51 (methylamino)-cyclohexanone];
- 52 (12) Lysergic acid;
- 53 (13) Lysergic acid amide;
- 54 (14) Methyprylon;
- 55 (15) Sulfondiethylmethane;
- 56 (16) Sulfonethylmethane;
- 57 (17) Sulfonmethane;
- 58 (18) Thiamylal;
- 59 (19) Thiopental;
- 60 (20) Tiletamine and zolazepam or any salt of tiletamine and
61 zolazepam; some trade or other names for a
62 tiletamine-zolazepam combination product: Telazol; some trade

63 or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-
64 cyclohexanone; some trade or other names for zolazepam:
65 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e]
66 [1,4]-diazepin-7(1H)-one, flupyrazapon; and

67 (21) Vinbarbital.

68 (d) *Nalorphine*. —

69 (e) *Narcotic drugs*. — Unless specifically excepted or unless
70 listed in another schedule:

71 (1) Any material, compound, mixture or preparation
72 containing any of the following narcotic drugs, or their salts
73 calculated as the free anhydrous base or alkaloid, in limited
74 quantities as set forth below:

75 (A) Not more than 1.8 grams of codeine per 100 milliliters
76 and not more than 90 milligrams per dosage unit, with an equal
77 or greater quantity of an isoquinoline alkaloid of opium;

78 (B) Not more than 1.8 grams of codeine per 100 milliliters
79 or not more than 90 milligrams per dosage unit, with one or
80 more active, nonnarcotic ingredients in recognized therapeutic
81 amounts;

82 (3) Not more than 300 milligrams of dihydrocodeinone
83 (hydrocodone) per 100 milliliters or not more than 15 milligrams
84 per dosage unit, with a fourfold or greater quantity of an
85 isoquinoline alkaloid of opium: *Provided*, That a prescription for
86 a product described in this subdivision may not be filled for
87 more than a one month supply or filled or refilled more than
88 three months after the date of the original prescription. Such
89 prescription may not be refilled more than twice;

90 (4) Not more than 300 milligrams of dihydrocodeinone
91 (hydrocodone) per 100 milliliters or not more than 15 milligrams
92 per dosage unit, with one or more active, nonnarcotic ingredients

93 in recognized therapeutic amounts: *Provided*, That a prescription
94 for a product described in this subdivision may not be filled for
95 more than a one month supply or filled or refilled more than
96 three months after the date of the original prescription. Such
97 prescription may not be refilled more than twice;

98 (C) Not more than 1.8 grams of dihydrocodeine per 100
99 milliliters and not more than 90 milligrams per dosage unit, with
100 one or more active, nonnarcotic ingredients in recognized
101 therapeutic amounts;

102 (D) Not more than 300 milligrams of ethylmorphine per 100
103 milliliters or not more than 15 milligrams per dosage unit, with
104 one or more active, nonnarcotic ingredients in recognized
105 therapeutic amounts;

106 (E) Not more than 500 milligrams of opium per 100
107 milliliters or per 100 grams or not more than 25 milligrams per
108 dosage unit, with one or more active, nonnarcotic ingredients in
109 recognized therapeutic amounts;

110 (F) Not more than 50 milligrams of morphine per 100
111 milliliters or per 100 grams, with one or more active,
112 nonnarcotic ingredients in recognized therapeutic amounts.

113 (2) Any material, compound, mixture or preparation
114 containing buprenorphine or its salts (including, but not limited
115 to, Suboxone).

116 (f) *Anabolic steroids*. — Unless specifically excepted or
117 unless listed in another schedule, any material, compound,
118 mixture, or preparation containing any quantity of anabolic
119 steroids, including its salts, isomers and salts of isomers
120 whenever the existence of the salts of isomers is possible within
121 the specific chemical designation.

122 (g) *Human growth hormones*. —

123 (h) Dronabinol (synthetic) in sesame oil and encapsulated in
124 a soft gelatin capsule in a United States food and drug
125 administration approved drug product. (Some other names for
126 dronabinol: (6aR-trans)-6a, 7, 8, 10a- tetrahydro-6, 6,
127 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1- ol or
128 (-)-delta-9-(trans)-tetrahydrocannabinol).

§60A-2-210. Schedule IV.

1 (a) Schedule IV shall consist of the drugs and other
2 substances, by whatever official name, common or usual name,
3 chemical name, or brand name designated, listed in this section.

4 (b) *Narcotic drugs.* — Unless specifically excepted or unless
5 listed in another schedule, any material, compound, mixture or
6 preparation containing any of the following narcotic drugs, or
7 their salts calculated as the free anhydrous base or alkaloid, in
8 limited quantities as set forth below:

9 (1) Not more than 1 milligram of difenoxin and not less than
10 25 micrograms of atropine sulfate per dosage unit;

11 (2) Dextropropoxyphene (alpha-(+)-4- dimethylamino-1,
12 2-diphenyl-3-methyl-2-propionoxybutane).

13 (c) *Depressants.* — Unless specifically excepted or unless
14 listed in another schedule, any material, compound, mixture or
15 preparation which contains any quantity of the following
16 substances, including its salts, isomers and salts of isomers
17 whenever the existence of such salts, isomers and salts of
18 isomers is possible within the specific chemical designation:

19 (1) Alprazolam;

20 (2) Barbital;

21 (3) Bromazepam;

- 22 (4) Camazepam;
- 23 (5) Carisoprodol;
- 24 (6) Chloral betaine;
- 25 (7) Chloral hydrate;
- 26 (8) Chlordiazepoxide;
- 27 (9) Clobazam;
- 28 (10) Clonazepam;
- 29 (11) Clorazepate;
- 30 (12) Clotiazepam;
- 31 (13) Cloxazolam;
- 32 (14) Delorazepam;
- 33 (15) Diazepam;
- 34 (16) Dichloralphenazone;
- 35 (17) Estazolam;
- 36 (18) Ethchlorvynol;
- 37 (19) Ethinamate;
- 38 (20) Ethyl loflazepate;
- 39 (21) Fludiazepam;
- 40 (22) Flunitrazepam;
- 41 (23) Flurazepam;
- 42 (24) Fospropofol;

- 43 (25) Halazepam;
- 44 (26) Haloxazolam;
- 45 (27) Ketazolam;
- 46 (28) Loprazolam;
- 47 (29) Lorazepam;
- 48 (30) Lormetazepam;
- 49 (31) Mebutamate;
- 50 (32) Medazepam;
- 51 (33) Meprobamate;
- 52 (34) Methohexital;
- 53 (35) Methylphenobarbital (mephobarbital);
- 54 (36) Midazolam;
- 55 (37) Nimetazepam;
- 56 (38) Nitrazepam;
- 57 (39) Nordiazepam;
- 58 (40) Oxazepam;
- 59 (41) Oxazolam;
- 60 (42) Paraldehyde;
- 61 (43) Petrichloral;
- 62 (44) Phenobarbital;
- 63 (45) Pinazepam;
- 64 (46) Prazepam;

65 (47) Quazepam;

66 (48) Temazepam;

67 (49) Tetrazepam;

68 (50) Triazolam;

69 (51) Zaleplon;

70 (52) Zolpidem;

71 (53) Zopiclone.

72 (d) Any material, compound, mixture or preparation which
73 contains any quantity of the following substance, including its
74 salts, isomers (whether optical, position or geometric) and salts
75 of such isomers whenever the existence of such salts, isomers
76 and salts of isomers is possible: Fenfluramine and
77 Dexfenfluramine.

78 (e) *Stimulants*. — Unless specifically excepted or unless
79 listed in another schedule, any material, compound, mixture or
80 preparation which contains any quantity of the following
81 substances having a stimulant effect on the central nervous
82 system, including its salts, isomers and salts of isomers:

83 (1) Cathine ((+)-norpseudoephedrine);

84 (2) Diethylpropion;

85 (3) Fencamfamin;

86 (4) Fenproporex;

87 (5) Mazindol;

88 (6) Mefenorex;

89 (7) Modafinil;

90 (8) Pemoline (including organometallic complexes and
91 chelates thereof);

92 (9) Phentermine;

93 (10) Pipradrol;

94 (11) Sibutramine;

95 (12) SPA (-)-1-dimethylamino-1,2-diphenylethane).

96 (f) *Other substances.* — Unless specifically excepted or
97 unless listed in another schedule, any material, compound,
98 mixture or preparation which contains any quantity of the
99 following substances, including its salts:

100 (1) Pentazocine;

101 (2) Butorphanol;

102 (3) Tramadol hydrochloride.

103 Amyl nitrite, butyl nitrite, isobutyl nitrite and the other
104 organic nitrites are controlled substances and no product
105 containing these compounds as a significant component shall be
106 possessed, bought or sold other than pursuant to a bona fide
107 prescription or for industrial or manufacturing purposes.

§60A-2-212. Schedule V.

1 (a) Schedule V shall consist of the drugs and other
2 substances, by whatever official name, common or usual name,
3 chemical name, or brand name designated, listed in this section.

4 (b) Narcotic drugs containing nonnarcotic active medicinal
5 ingredients. Any compound, mixture or preparation containing
6 any of the following narcotic drugs or their salts calculated as the
7 free anhydrous base or alkaloid in limited quantities as set forth
8 below, which shall include one or more nonnarcotic active

9 medicinal ingredients in sufficient proportion to confer upon the
10 compound, mixture or preparation valuable medicinal qualities
11 other than those possessed by the narcotic drug alone:

12 (1) Not more than 200 milligrams of codeine per 100
13 milliliters or per 100 grams;

14 (2) Not more than 100 milligrams of dihydrocodeine per 100
15 milliliters or per 100 grams;

16 (3) Not more than 100 milligrams of ethylmorphine per 100
17 milliliters or per 100 grams;

18 (4) Not more than 2.5 milligrams of diphenoxylate and not
19 less than 25 micrograms of atropine sulfate per dosage unit;

20 (5) Not more than 100 milligrams of opium per 100
21 milliliters or per 100 grams;

22 (6) Not more than 0.5 milligrams of difenoxin and not less
23 than 25 micrograms of atropine sulfate per dosage unit.

24 (c) *Stimulants*. — Unless specifically exempted or excluded
25 or unless listed in another schedule, any material, compound,
26 mixture or preparation which contains any quantity of the
27 following substances having a stimulant effect on the central
28 nervous system, including its salts, isomers and salts of isomers:

29 (1) Pyrovalerone.

30 (d) Any compound, mixture or preparation containing as its
31 single active ingredient ephedrine, pseudoephedrine or
32 phenylpropanolamine, their salts or optical isomers, or salts of
33 optical isomers except products which are for pediatric use
34 primarily intended for administration to children under the age
35 of twelve: *Provided*, That neither the offenses set forth in
36 section four hundred one, article four of this chapter, nor the
37 penalties therein, shall be applicable to ephedrine,

38 pseudoephedrine or phenylpropanolamine which shall be subject
39 to the provisions of article ten of this chapter.

40 (e) *Depressants*. — Unless specifically exempted or
41 excluded or unless listed in another schedule, any material,
42 compound, mixture or preparation which contains any quantity
43 of the following substances having a depressant effect on the
44 central nervous system, including its salts:

45 (1) Ezogabine [N-[2-amino-4-94-fluorobenzylamino)-
46 phenyl]-carbamic acid ethyl ester];

47 (2) Lacosamide [(R)-2-acetoamido- *N* -benzyl-3-methoxy-
48 propionamide];

49 (3) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic
50 acid].

§60A-3-308. Prescriptions.

1 (a) Except when dispensed directly by a practitioner, other
2 than a pharmacy, to an ultimate user, no controlled substance in
3 Schedule II may be dispensed without the lawful prescription of
4 a practitioner.

5 (b) In emergency situations, as defined by rule of the said
6 appropriate department, board or agency, Schedule II drugs may
7 be dispensed upon oral prescription of a practitioner, reduced
8 promptly to writing and filed by the pharmacy. Prescription
9 shall be retained in conformity with the requirements of section
10 three hundred six of this article. No prescription for a Schedule
11 II substance may be refilled.

12 (c) Except when dispensed directly by a practitioner, other
13 than a pharmacy, to an ultimate user, a controlled substance
14 included in Schedule III or IV, which is a prescription drug as
15 determined under appropriate state or federal statute, shall not be
16 dispensed without a lawful prescription of a practitioner. The
17 prescription shall not be filled or refilled more than six months

18 after the date thereof or be refilled more than five times unless
19 renewed by the practitioner.

20 (d) (1) A controlled substance included in Schedule V shall
21 not be distributed or dispensed other than for a medicinal
22 purpose: *Provided*, That buprenorphine shall be dispensed only
23 by prescription pursuant to subsections (a), (b) and (c) of this
24 section: *Provided, however*, That the controlled substances
25 included in subsection (e), section two hundred twelve, article
26 two of this chapter shall be dispensed, sold or distributed only by
27 a physician, in a pharmacy by a pharmacist or pharmacy
28 technician, or health care professional.

29 (2) If the substance described in subsection (e), section two
30 hundred twelve, article two of this chapter is dispensed, sold or
31 distributed in a pharmacy:

32 (A) The substance shall be dispensed, sold or distributed
33 only by a pharmacist or a pharmacy technician; and

34 (B) Any person purchasing, receiving or otherwise acquiring
35 any such substance shall produce a photographic identification
36 issued by a state or federal governmental entity reflecting his or
37 her date of birth.

CHAPTER 24

**(H. B. 4488 - By Delegates Morgan, Poore, D. Poling,
Fleischauer, Manypenny and Sponaugle)
[By Request of the Secretary of State's Office]**

[Passed March 5, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §19-4-6 of the Code of West Virginia,
1931, as amended, relating to eliminating the requirement for

notarization of the articles of incorporation for cooperative associations.

Be it enacted by the Legislature of West Virginia:

That §19-4-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. COOPERATIVE ASSOCIATIONS.

§19-4-6. Articles of incorporation.

1 Each association formed under this article shall prepare and
2 file articles of incorporation, setting forth:

3 (a) The name of the association, which includes the words
4 “cooperative,” “co-operative,” or “co-op,” and words or
5 abbreviations designating a corporation;

6 (b) The purposes for which it is formed;

7 (c) The place where its principal business will be transacted;

8 (d) The period, if any prescribed, for the duration of the
9 corporation;

10 (e) The number of incorporators which is not less than three,
11 the number of directors which is not less than three and any
12 number in excess of those minimums, or it may be set forth that
13 the number of directors will be fixed by the bylaws;

14 (f) If organized without capital stock, whether the property
15 rights and interest of each member are equal or unequal; and if
16 unequal, the general rules applicable to the classes of members
17 whose property rights and interest are determined and fixed; and
18 provision for the admission of new members who may be
19 entitled to share in the property of the association with the old

20 members, in accordance with the general rules. This provision of
21 the articles of incorporation may not be altered, amended or
22 repealed except by the written consent or vote of three fourths of
23 the members;

24 (g) If organized with capital stock and authorized to issue
25 only one class of stock, the total number of shares of stock which
26 the association has authority to issue, including: (1) The par
27 value of each of the shares; or (2) a statement that all the shares
28 are to be without par value;

29 (h) If the association is authorized to issue more than one
30 class of stock, the total number of shares of all classes of stock
31 which the association may issue, including: (1) The number of
32 shares of each class that have a par value and the par value of
33 each share by class; (2) the number of shares that are to be
34 without par value; and (3) a statement of the powers,
35 preferences, rights, qualifications, limitations or restrictions that
36 are permitted by section thirteen of this article in respect to a
37 class of stock fixed by the articles of incorporation or by
38 resolution of the board of directors;

39 (i) The articles shall be signed and filed in accordance with
40 the provisions of the business or nonprofit corporation laws of
41 this state;

42 (j) The articles may also contain any provisions managing,
43 defining, limiting or regulating the powers and affairs of the
44 association, the directors, the stockholders or members of the
45 association.

CHAPTER 25

**(Com. Sub. for S. B. 383 - By Senators Tucker,
Barnes, D. Hall and Snyder)**

[Passed March 7, 2014; in effect July 1, 2014.]
[Approved by the Governor on March 18, 2014.]

AN ACT to amend and reenact §31-17-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-17A-2 of said code, all relating to permitting certain owners of residential real estate limited exemptions from the licensing requirements of the West Virginia Residential Mortgage Lender, Broker and Servicer Act and the West Virginia Safe Mortgage Licensing Act for self-financed home financing if the owner is not acting within the regular course of business; establishing reporting requirements; and authorizing the Division of Financial Institutions to impose civil administrative penalties for failure to timely report.

Be it enacted by the Legislature of West Virginia:

That §31-17-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §31-17A-2 of said code be amended and reenacted, all to read as follows:

ARTICLE 17. WEST VIRGINIA RESIDENTIAL MORTGAGE LENDER, BROKER AND SERVICER ACT.

§31-17-1. Definitions and general provisions.

- 1 As used in this article:
- 2 (a) “Additional charges” means every type of charge arising
- 3 out of the making or acceptance of a primary or subordinate
- 4 mortgage loan, except finance charges, including, but not limited

5 to, official fees and taxes, reasonable closing costs and certain
6 documentary charges and insurance premiums and other charges
7 which definition is to be read in conjunction with and permitted
8 by section one hundred nine, article three, chapter forty-six-a of
9 this code;

10 (b) "Affiliated" means persons under the same ownership or
11 management control. As to corporations, limited liability
12 companies or partnerships, where common owners manage or
13 control a majority of the stock, membership interests or general
14 partnership interests of one or more such corporations, limited
15 liability companies or partnerships, those persons are considered
16 affiliated. In addition, persons under the ownership or
17 management control of the members of an immediate family
18 shall be considered affiliated. For purposes of this section,
19 "immediate family" means mother, stepmother, father,
20 stepfather, sister, stepsister, brother, stepbrother, spouse, child
21 and grandchildren;

22 (c) "Amount financed" means the total of the following
23 items to the extent that payment is deferred:

24 (1) The cash price of the goods, services or interest in land,
25 less the amount of any down payment, whether made in cash or
26 in property traded in;

27 (2) The amount actually paid or to be paid by the seller
28 pursuant to an agreement with the buyer to discharge a security
29 interest in or a lien on property traded in; and

30 (3) If not included in the cash price:

31 (A) Any applicable sales, use, privilege, excise or
32 documentary stamp taxes;

33 (B) Amounts actually paid or to be paid by the seller for
34 registration, certificate of title or license fees; and

35 (C) Additional charges permitted by this article;

36 (d) "Applicant" means a person who has applied for a lender
37 or broker license;

38 (e) "Broker" means any person acting in the regular course
39 of business who, for a fee or commission or other consideration,
40 negotiates or arranges, or who offers to negotiate or arrange, or
41 originates or assigns a primary or subordinate mortgage loan
42 between a lender and a borrower. A person is considered to be
43 acting in the regular course of business if he or she negotiates or
44 arranges, or offers to negotiate or arrange, or originates,
45 processes or assigns any primary or subordinate mortgage loans
46 in any one calendar year; or if he or she seeks to charge a
47 borrower or receive from a borrower money or other valuable
48 consideration in any primary or subordinate mortgage
49 transaction before completing performance of all broker services
50 that he or she has agreed to perform for the borrower;

51 (f) "Brokerage fee" means the fee or commission or other
52 consideration charged by a broker or loan originator for the
53 services described in subdivision (e) of this section;

54 (g) "Commissioner" means the Commissioner of Financial
55 Institutions of this state;

56 (h) "Finance charge" means the sum of all interest and
57 similar charges payable directly or indirectly by the debtor
58 imposed or collected by the lender incident to the extension of
59 credit as coextensive with the definition of "loan finance charge"
60 set forth in section one hundred two, article one, chapter forty-
61 six-a of this code;

62 (i) "Lender" means any person who makes or offers to make
63 or accepts or offers to accept or purchases or services any
64 primary or subordinate mortgage loan in the regular course of
65 business. A person is considered to be acting in the regular

66 course of business if he or she makes or accepts, or offers to
67 make or accept, any primary or subordinate mortgage loans in
68 any one calendar year.

69 “Lender” does not include any person who does not
70 currently have and has never held a residential mortgage lender
71 license in this or in any other state and who makes no more than
72 three primary or subordinate mortgage loans in any calendar year
73 to purchasers of any dwelling owned by that person: *Provided*,
74 That the person is required to report within thirty days of the
75 date of the loan any such mortgage loan to the Division of
76 Financial Institutions on a form available from the division upon
77 request. Failure to timely report as required by this subsection
78 may result in imposition by the commissioner of a civil
79 administrative penalty of up to \$250;

80 (j) “Licensee” means any person duly licensed by the
81 commissioner under the provisions of this article or article
82 seventeen-a of this chapter as a lender, broker or mortgage loan
83 originator;

84 (k) “Nationwide Mortgage Licensing System and Registry”
85 means a mortgage licensing system developed and maintained
86 by the Conference of State Bank Supervisors and the American
87 Association of Residential Mortgage Regulators for the licensing
88 and registration of licensed mortgage brokers and lenders
89 licensed under this article and mortgage loan originators licensed
90 under article seventeen-a of this chapter;

91 (l) “Person” means an individual, partnership, association,
92 trust, corporation or any other legal entity, or any combination
93 thereof;

94 (m) “Primary mortgage loan” means any loan primarily for
95 personal, family or household use that is secured by a mortgage,
96 deed of trust or other equivalent consensual security interest on

97 a dwelling as defined in Section 103(w) of the Truth in Lending
98 Act or residential real estate upon which is constructed or
99 intended to be constructed a dwelling;

100 (n) "Servicing" or "servicing a residential mortgage loan"
101 means through any medium or mode of communication the
102 collection or remittance for, or the right or obligation to collect
103 or remit for another lender, note owner or noteholder, payments
104 of principal, interest, including sales finance charges in a
105 consumer credit sale, and escrow items as insurance and taxes
106 for property subject to a residential mortgage loan; and

107 (o) "Subordinate mortgage loan" means any loan primarily
108 for personal, family or household use that is secured by a
109 mortgage, deed of trust or other equivalent consensual security
110 interest on a dwelling as defined in Section 103(w) of the Truth
111 in Lending Act or residential real estate upon which is
112 constructed or intended to be constructed a dwelling and is
113 subject to the lien of one or more prior recorded mortgages or
114 deeds of trust.

ARTICLE 17A. WEST VIRGINIA SAFE MORTGAGE LICENSING ACT.

§31-17A-2. Definitions.

1 As used in this article:

2 (a) "Commissioner" means the Commissioner of Financial
3 Institutions of this state;

4 (b) "Depository institution" has the same meaning as in
5 Section three of the Federal Deposit Insurance Act and includes
6 any federally insured credit union; and

7 (c) "Division" means the West Virginia Division of
8 Financial Institutions;

9 (d) "Federal banking agencies" means the Board of
10 Governors of the Federal Reserve System, the Comptroller of the
11 Currency, the Director of the Office of Thrift Supervision, the
12 National Credit Union Administration and the Federal Deposit
13 Insurance Corporation;

14 (e) "Immediate family member" means a spouse, child,
15 sibling, parent, grandparent or grandchild. This includes
16 stepparents, stepchildren, stepsiblings and adoptive
17 relationships;

18 (f) "Individual" means a natural person; and

19 (g) "Loan processor or underwriter" means an individual
20 who performs clerical or support duties as an employee at the
21 direction of and subject to the supervision and instruction of a
22 person licensed or exempt from licensing under article seventeen
23 of this chapter.

24 (1) For purposes of this paragraph, "clerical or support
25 duties" may include subsequent to the receipt of an application:

26 (A) The receipt, collection, distribution and analysis of
27 information common for the processing or underwriting of a
28 residential mortgage loan; and

29 (B) Communicating with a consumer to obtain the
30 information necessary for the processing or underwriting of a
31 loan, to the extent that such communication does not include
32 offering or negotiating loan rates or terms, or counseling
33 consumers about residential mortgage loan rates or terms; or

34 (2) An individual engaging solely in loan processor or
35 underwriter activities shall not represent to the public, through
36 advertising or other means of communicating or providing
37 information, including the use of business cards, stationery,
38 brochures, signs, rate lists or other promotional items, that such

39 individual can or will perform any of the activities of a mortgage
40 loan originator;

41 (h) "Mortgage loan originator" means an individual who for
42 compensation or gain or in the expectation of compensation or
43 gain takes a residential mortgage loan application or offers or
44 negotiates terms of a residential mortgage loan and is sponsored
45 by a mortgage lender, broker or regulated consumer lender
46 licensed by the Division of Financial Institutions.

47 "Mortgage loan originator" does not include:

48 (1) An individual engaged solely as a loan processor or
49 underwriter except as otherwise provided in section three of this
50 article;

51 (2) A person or entity who does not currently have and has
52 never held a residential mortgage loan originator license in this
53 or any other state and who acts as a mortgage loan originator on
54 no more than three residential mortgage loans to purchasers of
55 any dwelling owned by the person or entity in any calendar year:
56 *Provided*, That the person or entity is required to report any such
57 loan within thirty days of the date of the loan to the Division of
58 Financial Institutions on a form available from the division upon
59 request. Failure to timely report as required by this subsection
60 may result in imposition by the commissioner of a civil
61 administrative penalty of up to \$250;

62 (3) A person or entity that only performs real estate
63 brokerage activities and is licensed or registered in accordance
64 with West Virginia law, unless the person or entity is
65 compensated by a lender, a mortgage broker or other mortgage
66 loan originator or by any agent of such lender, mortgage broker
67 or other mortgage loan originator;

68 (4) A person or entity solely involved in extensions of credit
69 relating to timeshare plans, as that term is defined in Section
70 101(53D) of Title 11, United States Code; or

71 (5) A manufactured or modular home retailer employee who
72 performs purely administrative or clerical tasks and who receives
73 only the customary salary or commission from the employer in
74 connection with the sales transaction;

75 (i) “Real estate brokerage activity” means any activity that
76 involves offering or providing real estate brokerage services to
77 the public, including:

78 (1) Acting as a real estate salesperson or real estate broker
79 for a buyer, seller, lessor or lessee of real property;

80 (2) Bringing together parties interested in the sale, purchase,
81 lease, rental or exchange of real property;

82 (3) Negotiating, on behalf of any party, any portion of a
83 contract relating to the sale, purchase, lease, rental or exchange
84 of real property other than in connection with providing
85 financing with respect to any such transaction;

86 (4) Engaging in any activity for which a person engaged in
87 the activity is required to be registered or licensed as a real estate
88 agent or real estate broker under any applicable law; and

89 (5) Offering to engage in any activity, or act in any capacity,
90 described in subsection (1), (2), (3) or (4) of this section;

91 (j) “Nationwide Mortgage Licensing System and Registry”
92 means a mortgage licensing system developed and maintained
93 by the Conference of State Bank Supervisors and the American
94 Association of Residential Mortgage Regulators for the licensing
95 and registration of mortgage brokers and lenders licensed
96 pursuant to article seventeen of this chapter and mortgage loan
97 originators licensed pursuant to this article;

98 (k) “Nontraditional mortgage product” means any mortgage
99 product other than a fixed rate mortgage;

100 (l) "Person" means a natural person, corporation, company,
101 limited liability company, partnership or association;

102 (m) "Registered mortgage loan originator" means any
103 individual who:

104 (1) Meets the definition of mortgage loan originator and is
105 an employee of:

106 (A) A depository institution;

107 (B) A subsidiary that is:

108 (i) Owned and controlled by a depository institution; and

109 (ii) Regulated by a federal banking agency; or

110 (C) An institution regulated by the Farm Credit
111 Administration; and

112 (2) Is registered with, and maintains a unique identifier
113 through, the Nationwide Mortgage Licensing System and
114 Registry;

115 (n) "Residential mortgage loan" means any loan primarily
116 for personal, family or household use that is secured by a
117 mortgage, deed of trust or other equivalent consensual security
118 interest on a dwelling as defined in Section 103(w) of the Truth
119 in Lending Act or residential real estate upon which is
120 constructed or intended to be constructed a dwelling;

121 (o) "Residential real estate" means any real property located
122 in West Virginia, upon which is constructed or intended to be
123 constructed a dwelling; and

124 (p) "Unique identifier" means a number or other identifier
125 assigned by protocols established by the Nationwide Mortgage
126 Licensing System and Registry.

CHAPTER 26

**(S. B. 457 - By Senators Cookman, Miller, Laird, Plymale,
Kessler (Mr. President), Tucker and Snyder)**

[Passed March 6, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend and reenact §31-20-5h of the Code of West Virginia, 1931, as amended, relating to programs for inmates committed to state correctional facilities; requiring programs offered in regional jails to be the same as those offered in a Division of Corrections facility; requiring Division of Corrections employees or designees of the Commissioner of Corrections to provide said courses and classes; and authorizing the Regional Jail and Correctional Facility Authority and Division of Corrections to agree to designate certain facilities where said classes and programs are to be provided.

Be it enacted by the Legislature of West Virginia:

That §31-20-5h of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND
CORRECTIONAL FACILITY
AUTHORITY.**

§31-20-5h. Programs for inmates committed to prison.

- 1 (a) The Division of Corrections may develop and implement
- 2 a cognitive behavioral program to address the needs of inmates
- 3 detained in a regional jail, but committed to the custody of the
- 4 Commissioner of Corrections. The program shall be developed
- 5 in consultation with the Regional Jail and Correctional Facility

6 Authority, and may be offered by video teleconference or
7 webinar technology. The costs of the program shall be paid out
8 of funds appropriated to the Division of Corrections. The
9 program shall be covered by the rehabilitation plan policies and
10 procedures adopted by the Division of Corrections under
11 subsection (h), section thirteen, article twelve, chapter sixty-two
12 of this code.

13 (b) In addition to subsection (a) of this section, the Division
14 of Corrections shall make available, to each inmate in the
15 custody of the commissioner who is detained in a regional jail
16 facility awaiting transfer to a Division of Corrections facility,
17 those programs and courses, as are determined by an inmate's
18 risk and needs assessment mandated by section thirteen, article
19 twelve, chapter sixty-two of this code, necessary to prepare the
20 inmate for parole. Such programming and courses shall be
21 provided by the Division of Corrections personnel or the
22 commissioner's designees.

23 (c) The Regional Jail and Correctional Facility Authority
24 shall provide the necessary facilities and equipment to effectuate
25 this section or, upon the agreement of the Regional Jail and
26 Correctional Facility Authority and the commissioner, other
27 facilities may be utilized.

CHAPTER 27

**(Com. Sub. for S. B. 439 - By Senators Fitzsimmons,
Kessler (Mr. President), Beach, Edgell and Yost)**

[Passed March 8, 2014; in effect from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §7-22-9 and §7-22-15 of the Code of West Virginia, 1931, as amended, all relating to county economic

opportunity development district; increasing the Fort Henry Economic Opportunity Development Project District from three hundred to five hundred contiguous acres of land; providing when the Fort Henry Economic Opportunity Development District may be abolished or terminated; providing time period during which certain economic opportunity development districts may exist and when abolished by operation of law; providing definitions; providing for the authority of the Tax Commissioner; and providing effect of cessation and abolishment of a county economic opportunity development district.

Be it enacted by the Legislature of West Virginia:

That §7-22-9 and §7-22-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

§7-22-9. Authorization to levy special district excise tax.

1 (a) *General.* — County commissions have no inherent
2 authority to levy taxes and have only that authority expressly
3 granted to them by the Legislature. The Legislature is
4 specifically extended, and intends by this article, to exercise
5 certain relevant powers expressed in section six-a, article X of
6 the Constitution of this state as follows: (1) The Legislature may
7 appropriate state funds for use in matching or maximizing
8 grants-in-aid for public purposes from the United States or any
9 department, bureau, commission or agency thereof, or any other
10 source, to any county, municipality or other political subdivision
11 of the state, under such circumstances and subject to such terms,
12 conditions and restrictions as the Legislature may prescribe by
13 law; and (2) the Legislature may impose a state tax or taxes or
14 dedicate a state tax or taxes or any portion thereof for the benefit
15 of and use by counties, municipalities or other political
16 subdivisions of the state for public purposes, the proceeds of any

17 such imposed or dedicated tax or taxes or portion thereof to be
18 distributed to such counties, municipalities or other political
19 subdivisions of the state under such circumstances and subject
20 to such terms, conditions and restrictions as the Legislature may
21 prescribe.

22 Because a special district excise tax would have the effect of
23 diverting, for a specified period of years, tax dollars which to the
24 extent, if any, are not essentially incremental to tax dollars
25 currently paid into the General Revenue Fund of the state, the
26 Legislature finds that in order to substantially ensure that such
27 special district excise taxes will not adversely impact the current
28 level of the General Revenue Fund of the state, it is necessary for
29 the Legislature to separately consider and act upon each and
30 every economic development district which is proposed,
31 including the unique characteristics of location, current condition
32 and activity of and within the area included in such proposed
33 economic opportunity development district and that for such
34 reasons a statute more general in ultimate application is not
35 feasible for accomplishment of the intention and purpose of the
36 Legislature in enacting this article. Therefore, no economic
37 opportunity development district excise tax may be levied by a
38 county commission until after the Legislature expressly
39 authorizes the county commission to levy a special district
40 excise tax on sales of tangible personal property and services
41 made within district boundaries approved by the Legislature.

42 (b) *Authorizations.* — The Legislature authorizes the
43 following county commissions to levy special district excise
44 taxes on sales of tangible personal property and services made
45 from business locations in the following economic opportunity
46 development districts:

47 (1) The Ohio County Commission may levy a special district
48 excise tax for the benefit of the Fort Henry Economic
49 Opportunity Development District which comprises five hundred

50 contiguous acres of land. Notwithstanding the time limitations
51 provisions of subdivision (2), subsection (a), section fifteen of
52 this article, the Fort Henry Economic Opportunity Development
53 District shall not be abolished under subdivision (2), subsection
54 (a), section fifteen of this article until the year 2044, unless
55 sooner abolished and terminated in accordance with the
56 provisions of subdivision (1), subsection (a), section fifteen of
57 this article or any other provision of this code, or sooner
58 abolished for any other reason: *Provided*, That on December 31,
59 2044, the provisions of subdivision (2), subsection (a), section
60 fifteen of this article shall apply to abolish the Fort Henry
61 Economic Opportunity Development District, if the district has
62 not been abolished prior to that date.

63 (2) The Harrison County Commission may levy a special
64 district excise tax for the benefit of the Charles Pointe Economic
65 Opportunity Development District which comprises four
66 hundred thirty-seven acres of land; and

67 (3) The Monongalia County Commission may levy a special
68 district excise tax for the benefit of the University Town Centre
69 Economic Opportunity District which comprises approximately
70 one thousand four hundred fifty contiguous acres of land.

§7-22-15. Abolishment and dissolution of district; notice; hearing.

1 (a) *General.* — (1) Except upon the express written consent
2 of the Executive Director of the Development Office and of all
3 the holders or obligees of any indebtedness or other instruments
4 the proceeds of which were applied to any development
5 expenditures or any indebtedness the payment of which is
6 secured by revenues payable into the fund provided under
7 section eight of this article or by any public property, a district
8 may only be abolished by the county commission when there is
9 no outstanding indebtedness, the proceeds of which were applied
10 to any development expenditures or the payment of which is
11 secured by revenues payable into the fund provided under

12 section eight of this article, or by any public property, and
13 following a public hearing upon the proposed abolishment.

14 (2) *Thirty-year limitations.* —

15 (A) *Thirty-year limitation on new districts.* —
16 Notwithstanding subdivision (1) of this subsection, and
17 notwithstanding any other provision of this code to the contrary,
18 any district for which the date of initial enactment was after
19 December 31, 2013, shall cease to exist and shall be abolished
20 by operation of law, at 11:59 P.M., United States eastern time
21 zone, on December 31 of the thirtieth calendar year subsequent
22 to the initial year of enactment. Special district excise tax may
23 not be levied, imposed or collected in or from the district so
24 abolished or from or on any business located therein or any
25 transaction occurring therein after the cessation and abolishment
26 of the district.

27 (B) *Thirty-year limitation on preexisting districts receiving*
28 *authorization for boundary changes or other changes after*
29 *December 31, 2013.* — Notwithstanding subdivision (1) of this
30 subsection, notwithstanding any other provision of this Code to
31 the contrary and notwithstanding a date of initial enactment for
32 a district that is prior to December 31, 2013, if legislative
33 authorization is enacted after December 31, 2013, to expand or
34 amend the previously authorized boundary, size or acreage of the
35 district, or make any other amendment or change relating to the
36 district, such district shall cease to exist and shall be abolished
37 by operation of law, at 11:59 P.M., United States eastern time
38 zone, on December 31 of the thirtieth calendar year subsequent
39 to the initial year of enactment. Special district excise tax may
40 not be levied, imposed or collected in or from the district so
41 abolished or from or on any business located therein or any
42 transaction occurring therein after the cessation and abolishment
43 of the district.

44 (C) *Definitions.* — For purposes of this subdivision:

45 (i) The term “date of initial enactment” means the date of
46 passage of legislation whereby legislative authorization was first
47 enacted for the county commission to levy special district excise
48 taxes for a district, and prior to enactment of any legislative
49 authorization to expand or amend the authorized boundary, size
50 or acreage of the district, or make any other amendment or
51 change relating to the district as originally authorized.

52 (ii) The term “initial year of enactment” means the calendar
53 year during which the date of initial enactment occurred.

54 (D) This section shall not be interpreted to abrogate or
55 hinder the authority of the Tax Commissioner to collect, receive,
56 process or administer any special district excise tax accrued, due
57 or payable for any tax period prior to the cessation and
58 abolishment of the district, or to audit and issue assessments of
59 tax, interest, additions to tax and penalties for the collection,
60 remittance and enforcement thereof.

61 (E) Upon cessation and abolishment of a district under this
62 section or any provision of this code, or any cessation or
63 abolishment of a district for any reason, the consumers sales and
64 service tax and use tax and municipal consumers sales and
65 service tax and use tax, if applicable, shall be imposed, collected,
66 levied and remitted, as provided by law for sales and uses in the
67 previously authorized district.

68 (b) *Notice of public hearing.* — Notice of the public hearing
69 required by subsection (a) of this section shall be provided by
70 first-class mail to all owners of real property within the district
71 and shall be published as a Class I-0 legal advertisement in
72 compliance with article three, chapter fifty-nine of this code at
73 least twenty days prior to the public hearing.

74 (c) *Transfer of district assets and funds.* — Upon the
75 abolishment of any economic opportunity development district,

76 any funds or other assets, contractual rights or obligations,
77 claims against holders of indebtedness or other financial
78 benefits, liabilities or obligations existing after full payment has
79 been made on all existing contracts, bonds, notes or other
80 obligations of the district are transferred to and assumed by the
81 county commission. Any funds or other assets transferred shall
82 be used for the benefit of the area included in the district being
83 abolished.

84 (d) *Reinstatement of district.* — Following abolishment of a
85 district pursuant to this section, its reinstatement requires
86 compliance with all requirements and procedures set forth in this
87 article for the initial development, approval, establishment and
88 creation of an economic opportunity development district.

CHAPTER 28

**(Com. Sub. for S. B. 458 - By Senators Kessler (Mr. President),
Barnes, Fitzsimmons, Kirkendoll, Walters, Laird,
Yost, Cookman and Stollings)**

[Passed March 8, 2014; in effect July 1, 2014]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §59-1-11 of the Code of West Virginia, 1931, as amended, relating to certain fees in the circuit courts of the state to be dedicated to the support of civil legal services for low-income persons by depositing certain fees in the preexisting Fund for Civil Legal Services for Low Income Persons; requiring the civil action filing fee apply to removal of cases from magistrate court; increasing the civil action filing fee; creating a new fee associated with certain civil court filings; creating exceptions; and providing for the collection of certain fees by magistrate court.

Be it enacted by the Legislature of West Virginia:

That §59-1-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-11. Fees to be charged by clerk of circuit court.

1 (a) The clerk of a circuit court shall charge and collect for
2 services rendered by the clerk the following fees which shall be
3 paid in advance by the parties for whom services are to be
4 rendered:

5 (1) Except as provided in subdivisions (2) and (3) of this
6 subsection, for instituting any civil action under the Rules of
7 Civil Procedure, any statutory summary proceeding, any
8 extraordinary remedy, the docketing of civil appeals or removals
9 of civil cases from magistrate court, or any other action, cause,
10 suit or proceeding, \$200, of which \$30 shall be deposited in the
11 Courthouse Facilities Improvement Fund created by section six,
12 article twenty-six, chapter twenty-nine of this code and \$45 shall
13 be deposited in the special revenue account designated the Fund
14 for Civil Legal Services for Low Income Persons, established by
15 paragraph (B), subdivision (4), subsection (c), section ten of this
16 article, and \$20 deposited in the special revenue account created
17 in section six hundred three, article twenty-six, chapter forty-
18 eight of this code to provide legal services for domestic violence
19 victims;

20 (2) For instituting an action for medical professional
21 liability, \$280, of which \$10 shall be deposited in the Courthouse
22 Facilities Improvement Fund created by section six, article
23 twenty-six, chapter twenty-nine of this code;

24 (3) Beginning on and after July 1, 1999, for instituting an
25 action for divorce, separate maintenance or annulment, \$135;

26 (4) For petitioning for the modification of an order involving
27 child custody, child visitation, child support or spousal support,
28 \$85;

29 (5) For petitioning for an expedited modification of a child
30 support order, \$35; and

31 (6) For filing any pleading that includes a counterclaim,
32 cross claim, third-party complaint or motion to intervene, \$200,
33 which shall be deposited in the special revenue account
34 designated the Fund for Civil Legal Services for Low Income
35 Persons, established by paragraph (B), subdivision (4),
36 subsection (c), section ten of this article: *Provided*, That this
37 subdivision and the fee it imposes does not apply in family court
38 cases nor may more than one such fee be imposed on any one
39 party in any one civil action.

40 (b) In addition to the foregoing fees, the following fees shall
41 be charged and collected:

42 (1) For preparing an abstract of judgment, \$5;

43 (2) For a transcript, copy or paper made by the clerk for use
44 in any other court or otherwise to go out of the office, for each
45 page, \$1;

46 (3) For issuing a suggestion and serving notice to the debtor
47 by certified mail, \$25;

48 (4) For issuing an execution, \$25;

49 (5) For issuing or renewing a suggestee execution and
50 serving notice to the debtor by certified mail, \$25;

51 (6) For vacation or modification of a suggestee execution,
52 \$1;

53 (7) For docketing and issuing an execution on a transcript of
54 judgment from magistrate court, \$3;

55 (8) For arranging the papers in a certified question, writ of
56 error, appeal or removal to any other court, \$10, of which \$5
57 shall be deposited in the Courthouse Facilities Improvement
58 Fund created by section six, article twenty-six, chapter twenty-
59 nine of this code;

60 (9) For each subpoena, on the part of either plaintiff or
61 defendant, to be paid by the party requesting the same, fifty
62 cents;

63 (10) For additional service, plaintiff or appellant, where any
64 case remains on the docket longer than three years, for each
65 additional year or part year, \$20; and

66 (11) For administering funds deposited into a federally
67 insured interest-bearing account or interest-bearing instrument
68 pursuant to a court order, \$50, to be collected from the party
69 making the deposit. A fee collected pursuant to this subdivision
70 shall be paid into the general county fund.

71 (c) In addition to the foregoing fees, a fee for the actual
72 amount of the postage and express may be charged and collected
73 for sending decrees, orders or records that have not been ordered
74 by the court to be sent by mail or express.

75 (d) The clerk shall tax the following fees for services in a
76 criminal case against a defendant convicted in such court:

77 (1) In the case of a misdemeanor, \$85; and

78 (2) In the case of a felony, \$105, of which \$10 shall be
79 deposited in the Courthouse Facilities Improvement Fund
80 created by section six, article twenty-six, chapter twenty-nine of
81 this code.

82 (e) The clerk of a circuit court shall charge and collect a fee
83 of \$25 per bond for services rendered by the clerk for processing
84 of criminal bonds and the fee shall be paid at the time of
85 issuance by the person or entity set forth below:

86 (1) For cash bonds, the fee shall be paid by the person
87 tendering cash as bond;

88 (2) For recognizance bonds secured by real estate, the fee
89 shall be paid by the owner of the real estate serving as surety;

90 (3) For recognizance bonds secured by a surety company, the
91 fee shall be paid by the surety company;

92 (4) For ten percent recognizance bonds with surety, the fee
93 shall be paid by the person serving as surety; and

94 (5) For ten percent recognizance bonds without surety, the
95 fee shall be paid by the person tendering ten percent of the bail
96 amount.

97 In instances in which the total of the bond is posted by more
98 than one bond instrument, the above fee shall be collected at the
99 time of issuance of each bond instrument processed by the clerk
100 and all fees collected pursuant to this subsection shall be
101 deposited in the Courthouse Facilities Improvement Fund
102 created by section six, article twenty-six, chapter twenty-nine of
103 this code. Nothing in this subsection authorizes the clerk to
104 collect the above fee from any person for the processing of a
105 personal recognizance bond.

106 (f) The clerk of a circuit court shall charge and collect a fee
107 of \$10 for services rendered by the clerk for processing of
108 bailpiece and the fee shall be paid by the surety at the time of
109 issuance. All fees collected pursuant to this subsection shall be
110 deposited in the Courthouse Facilities Improvement Fund

111 created by section six, article twenty-six, chapter twenty-nine of
112 this code.

113 (g) No clerk is required to handle or accept for disbursement
114 any fees, cost or amounts of any other officer or party not
115 payable into the county treasury except on written order of the
116 court or in compliance with the provisions of law governing such
117 fees, costs or accounts.

118 (h) Fees for removal of civil cases from magistrate court
119 shall be collected by the magistrate court when the case is still
120 properly before the magistrate court. The magistrate court clerk
121 shall forward the fees collected to the circuit court clerk.

CHAPTER 29

**(Com. Sub. for H. B. 4552 - By Delegates Hunt,
Sponaugle, Wells and Manypenny)**

[Passed March 8, 2014; in effect ninety day from passage.]

[Approved by the Governor on March 31, 2014.]

AN ACT to amend and reenact §14-2-1, §14-2-8, §14-2-13, §14-2-13a, §14-2-16, §14-2-25 and §14-2-28 of the Code of West Virginia, 1931, as amended, all relating to the court of claims; clarifying purpose of article; authorizing additional days of judges reimbursement; revising court jurisdiction; revising process for innocent persons who have been wrongly convicted to file a claim; authorizing hiring expert witness by court; abolishing advisory determination procedure; and clarifying actions of Court not subject to judicial review.

Be it enacted by the Legislature of West Virginia:

That §14-2-1, §14-2-8, §14-2-13, §14-2-13a, §14-2-16, §14-2-25 and §14-2-28 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-1. Purpose.

1 The purpose of this article is to provide a simple and
2 impartial method for the consideration of claims against the state
3 that because of the provisions of section thirty-five, article VI of
4 the Constitution of the State, and of statutory restrictions,
5 inhibitions or limitations, cannot be determined in the regular
6 courts of the state; and to provide for proceedings in which the
7 state has a special interest.

§14-2-8. Compensation of judges; expenses.

1 Each judge of the court shall receive \$210 for each day
2 actually served and expenses incurred in the performance of his
3 or her duties paid at the same per diem rate as members of the
4 Legislature: *Provided*, That the chief judge shall receive an
5 additional \$50 for each day actually served. In addition to the
6 expense per diem, each judge may, when using his or her own
7 vehicle, be reimbursed for mileage at the mileage rate equal to
8 the amount paid by the travel management office of the
9 Department of Administration. The number of days served by
10 each judge shall not exceed one hundred twenty in any fiscal
11 year, except by authority of the Joint Committee on Government
12 and Finance: *Provided*, That in computing the number of days
13 served, days utilized solely for the exercise of duties assigned to
14 judges and commissioners by the provisions of article two-a of
15 this chapter shall be disregarded. For the purpose of this section,
16 time served shall include time spent in the hearing of claims, in

17 the consideration of the record, in the preparation of opinions
18 and in necessary travel.

§14-2-13. Jurisdiction of the court.

1 The jurisdiction of the court, except for the claims excluded
2 by section fourteen, shall extend to the following matters:

3 (1) Claims and demands, liquidated and unliquidated, ex
4 contractu and ex delicto, against the state or any of its agencies,
5 which the state as a sovereign commonwealth should in equity
6 and good conscience discharge and pay; and

7 (2) Claims and demands, liquidated and unliquidated, ex
8 contractu and ex delicto, which may be asserted in the nature of
9 set-off or counterclaim on the part of the state or any state
10 agency.

**§14-2-13a. Claims for unjust arrest and imprisonment or
conviction and imprisonment.**

1 (a) *Legislative intent* — The Legislature finds and declares
2 that innocent persons who have been wrongly convicted of
3 crimes and subsequently imprisoned and innocent persons
4 wrongly arrested, charged with a crime or imprisoned, who have
5 subsequently been released when another person was arrested,
6 prosecuted and convicted of the same criminal offense have been
7 frustrated in seeking legal redress due to a variety of substantive
8 and technical obstacles in the law and that affected persons
9 should have an available avenue of redress over and above the
10 existing tort remedies. Therefore, the Legislature intends by
11 enactment of the provisions of this section that those innocent
12 persons who can demonstrate that they were wrongly arrested
13 and imprisoned or unjustly convicted and imprisoned are able to
14 seek damages against the state for loss of liberty.

15 (b) *Notice of Claim* — The claimant's notice of claim shall
16 state facts in sufficient detail to permit the court to find that a
17 claimant is likely to succeed at a trial on the merits. If the court
18 finds in its discretion after reviewing a claim that the claimant
19 has failed to allege sufficient facts upon which relief can be
20 granted, the court may dismiss the claim, either on its own
21 motion or by a motion of the state.

22 (c) *Burden of Proof*— A claimant shall demonstrate by clear
23 and convincing evidence that they were unjustly arrested and
24 imprisoned or unjustly convicted and imprisoned, and the court
25 shall, in the interest of justice, give due consideration to
26 difficulties of proof caused by the passage of time, the death or
27 unavailability of witnesses, the destruction of evidence or other
28 factors not caused by such persons or those acting on their
29 behalf. Specifically, the following shall be proven by clear and
30 convincing evidence:

31 (1) (A) The claimant has been convicted of one or more
32 felonies or misdemeanors against the state and subsequently
33 sentenced to a term of confinement, and has served all or any
34 part of the sentence; or

35 (B) The claimant has been arrested and confined, and
36 charged by warrant, information, or any other accusatory
37 instrument for one or more felonies or misdemeanors, and that
38 the charges were dismissed against the claimant; when another
39 person was subsequently charged, arrested, and convicted of the
40 same felony or felonies, or misdemeanors, or;

41 (2) (A) Another person was subsequently charged, arrested
42 and convicted of the same felony or felonies or misdemeanors;

43 (B) The claimant has been pardoned upon the ground of
44 innocence of the crime or crimes for which the claimant was
45 sentenced and which are the grounds for the complaint; or

46 (C) The claimant's judgment of conviction was reversed or
47 vacated, and the accusatory instrument dismissed or, if a new
48 trial was ordered, either the claimant was found not guilty at the
49 new trial or the claimant was not retried and the accusatory
50 instrument dismissed; and

51 (3) The claimant did not by his or her own conduct cause or
52 bring about his or her conviction.

53 (d) *Type of Relief Granted and the Claimant's Burden to*
54 *Prove Damages* — If the court finds that the claimant is entitled
55 to a judgment, the court shall award damages in a sum of money
56 as the court determines will fairly and reasonably compensate
57 the claimant based upon the sufficiency of the claimant's proof
58 at trial. Whether the damages fairly and reasonably compensate
59 the claimant will depend upon the unique facts and
60 circumstances of each claim. The claimant shall bear the
61 ultimate burden of proving all damages associated with the
62 claimant's claim.

§14-2-16. Regular procedure.

1 The regular procedure for the consideration of claims shall
2 be substantially as follows:

3 (1) The claimant shall give notice to the clerk that he or she
4 desires to maintain a claim. Notice shall be in writing and shall
5 be in sufficient detail to identify the claimant, the circumstances
6 giving rise to the claim, and the state agency concerned, if any.
7 The claimant shall not otherwise be held to any formal
8 requirement of notice.

9 (2) The clerk shall transmit a copy of the notice to the state
10 agency concerned. The state agency may deny the claim, or may
11 request a postponement of proceedings to permit negotiations
12 with the claimant. If the court finds that a claim is *prima facie*

13 within its jurisdiction, it shall order the claim to be placed upon
14 its regular docket for hearing.

15 (3) During the period of negotiations and pending hearing,
16 the state agency, represented by the Attorney General, shall, if
17 possible, reach an agreement with the claimant regarding the
18 facts upon which the claim is based so as to avoid the necessity
19 for the introduction of evidence at the hearing. If the parties are
20 unable to agree upon the facts an attempt shall be made to
21 stipulate the questions of fact in issue.

22 (4) The court shall so conduct the hearing as to disclose all
23 material facts and issues of liability and may examine or
24 cross-examine witnesses. The court may call witnesses or require
25 evidence not produced by the parties; the court may call expert
26 witnesses and compensate those experts for their services in an
27 amount not to exceed \$3,500 per expert; the court may stipulate
28 the questions to be argued by the parties; and the court may
29 continue the hearing until some subsequent time to permit a
30 more complete presentation of the claim.

31 (5) After the close of the hearing the court shall consider the
32 claim and shall conclude its determination, if possible, within
33 sixty days.

§14-2-25. Reports of the court.

1 The clerk shall be the official reporter of the court. He or she
2 shall collect and edit the approved claims, awards and
3 statements, shall prepare them for submission to the Legislature
4 in the form of an annual report and shall prepare them for
5 publication.

6 Claims and awards shall be separately classified as follows:

7 (1) Approved claims and awards not satisfied but referred to
8 the Legislature for final consideration and appropriation.

9 (2) Approved claims and awards satisfied by payments out
10 of regular appropriations.

11 (3) Approved claims and awards satisfied by payment out of
12 a special appropriation made by the Legislature to pay claims
13 arising during the fiscal year.

14 (4) Claims rejected by the court with the reasons therefor.

15 The court may include any other information or
16 recommendations pertaining to the performance of its duties.

17 The court shall transmit its annual report to the presiding
18 officer of each house of the Legislature, and a copy shall be
19 made available to any member of the Legislature upon request
20 therefor. The reports of the court shall be published biennially by
21 the clerk as a public document. The biennial report shall be filed
22 with the clerk of each house of the Legislature, the Governor and
23 the Attorney General.

§14-2-28. Award as condition precedent to appropriation.

1 (a) It is the policy of the Legislature to make no
2 appropriation to pay any claims against the state, cognizable by
3 the court, unless the claim has first been passed upon by the
4 court.

5 (b) Because a decision of the court is a recommendation to
6 the Legislature based upon a finding of moral obligation, and the
7 enactment process of passage of legislation authorizing
8 payments of claims recommended by the court is at legislative
9 discretion, no right of appeal exists to findings and award
10 recommendations of the court of claims and they are not subject
11 to judicial review.

CHAPTER 30

**(Com. Sub. for H. B. 4294 - By Delegates Ashley,
Westfall, Manchin, Hunt, Skinner,
Ellem, McCuskey, Shott, Morgan, Craig and Lane)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-27-1, §47-27-2, §47-27-3 and §47-27-4, all relating to the establishment of standards for court reporters and entities providing court reporting services; prohibiting certain conduct by court reporters and persons utilizing or arranging for court reporting services; exempting certain court reporters and court reporting services; authorizing disclosure and certification of certain information; and creating civil penalties for violations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §47-27-1, §47-27-2, §47-27-3 and §47-27-4, all to read as follows:

ARTICLE 27. COURT REPORTER SERVICES.

§47-27-1. Fair trade standards for use of court reporter services.

- 1 (a) The purpose of this article is to ensure the integrity of the
- 2 use of court reporter services by establishing standards for
- 3 private court reporters and entities providing or arranging for
- 4 court reporting services. It is declared the policy of the State of
- 5 West Virginia that fair, ethical and impartial selection and use of

6 court reporting services are integral to the equitable
7 administration of justice.

8 (b) For purposes of this article, “court reporter” means
9 private court reporters providing court reporting services, as well
10 as businesses, entities or firms that provide or arrange for court
11 reporting services, and “original transcript” means the original
12 transcription requested by a party along with a certified copy of
13 same for purposes of filing with a court.

14 (c) The provisions described in this article apply to court
15 reporting services performed in this state that are:

16 (1) Provided by a court reporter, wherever based, in
17 connection with a legal proceeding commenced or maintained in
18 this state; and

19 (2) Provided by a court reporter based in this state, whether
20 the parties appear in person or by remote means.

21 (d) The provisions of this article do not apply to the conduct
22 of official court reporters or their substitutes, appointed by
23 judges pursuant to section one, article seven, chapter fifty-one of
24 this code, when acting in their official capacities, reporters of
25 government proceedings not relating to a legal proceeding, local
26 or federal courts, providing real-time services for hard-of-
27 hearing litigants, the provision of pro bono services to litigants
28 who would qualify for the same through West Virginia Legal
29 Aid or other similar organizations, workers’ compensation
30 proceedings or legal proceedings recorded with sound-and-visual
31 devices. A legal proceeding includes, but is not limited to, the
32 following:

33 (1) A court proceeding;

34 (2) A deposition;

35 (3) An arbitration hearing; and

36 (4) An examination under oath.

37 (e) Court reporters, businesses, entities, insurers or firms
38 providing or arranging for court reporting services are subject to
39 the provisions of this section even if the businesses, entities,
40 insurers or firms are not subject to registration or other
41 regulatory oversight in the state.

§47-27-2. Prohibited conduct.

1 (a) A legal proceeding may not be reported by:

2 (1) An individual who engages in a prohibited action as
3 provided in this section;

4 (2) A party to the action;

5 (3) A relative, employee or attorney of one of the parties;

6 (4) Someone with a financial interest in the action or its
7 outcome; or

8 (5) A relative, employee or attorney of someone with a
9 financial interest in the action or its outcome.

10 (b) Court reporters may not:

11 (1) Base the compensation for the court reporting services on
12 the outcome of the proceeding or otherwise giving the court
13 reporter or court reporting business, entity or firm a financial
14 interest in the action. Court reporters or businesses, entities or
15 firms providing or arranging for court reporting services may not
16 offer or provide court reporting services where payment for
17 those services will be made contingent on the outcome of the
18 action.

19 (2) Enter into an agreement, whether formal or informal, for
20 court reporting services which restricts the noticing attorney or
21 party to a legal proceeding from selecting and using the court
22 reporter of his or her own choosing or otherwise requires the
23 noticing attorney or party to a legal proceeding to select or use
24 a court reporter not of his or her own choosing. Before accepting
25 an assignment for court reporting services, the court reporter is
26 obligated to make reasonable efforts to ascertain whether any
27 arrangement exists which is prohibited under this article.

28 (3) Allow the format, content or body of the transcript as
29 certified by the court reporter to be manipulated in a manner that
30 increases the cost of the transcript.

31 (4) Charge a fee for the electronic copy or paper copy of a
32 transcript that is more than fifty-five percent of the cost of the
33 original transcript, except by agreement of all parties to a legal
34 proceeding. This prohibition does not apply to real-time court
35 reporting services or accelerated transcript delivery requests
36 made by the party requesting a copy of the transcript when the
37 party requesting the original has not requested accelerated
38 delivery.

39 (5) Require the attorney purchasing the original or a copy of
40 the transcript to purchase extra services that were neither ordered
41 nor desired from the court reporter as a condition for the sale of
42 the transcript.

§47-27-3. Disclosure and limitations on practices.

1 (a) Prior to the commencement of a legal proceeding, and at
2 any time during or following the conclusion of a legal
3 proceeding, an attorney or a party to that legal proceeding has
4 the right to an itemized statement of all rates and charges for all
5 services that have been or will be provided by the court reporter
6 or business, entity or firm providing or arranging for court
7 reporting services to any party to the legal proceeding.

8 (b) A court reporter shall certify on the certification page of
9 each transcript of a legal proceeding, the following: "I certify
10 that the attached transcript meets the requirements set forth
11 within article twenty-seven, chapter forty-seven of the West
12 Virginia Code."

13 (c) Each transcript of a legal proceeding shall conform to the
14 following minimum standards:

15 (1) No fewer than twenty-four typed lines on standard 8-1/2
16 by 11 inches pages.

17 (2) No fewer than nine characters to the typed inch.

18 (3) A full line of text shall be no less than fifty-six characters
19 and/or spaces unless timestamping is used, in which case no
20 fewer than forty-eight characters and/or spaces shall be used on
21 a full line of text.

22 (4) Timestamping may only be printed on a transcript under
23 any of the following circumstances: (A) When a deposition is
24 videotaped; (B) when requested by counsel on the record; and
25 (C) when a transcript will have not less than forty-eight
26 characters per line.

27 (5) The page numbers, headers and footers do not count as
28 a line of text. Line numbers and the spaces preceding text do not
29 count as a character.

30 (6) Each question and answer to begin on a separate line.

31 (7) Each question and answer to begin no more than five
32 spaces from the left-hand margin with no more than five spaces
33 from the question and answer to the text.

34 (8) Carry-over question and answer lines to begin at the left-
35 hand margin.

36 (9) Colloquy material to begin no more than fifteen spaces
37 from the left-hand margin, with carryover colloquy to the left-
38 hand margin. In colloquy, text shall begin no more than two
39 spaces after the colon following speaker identification.

40 (10) Quoted material to begin no more than fifteen spaces
41 from the left-hand margin, with carry-over lines to begin no
42 more than ten spaces from the left-hand margin.

43 (11) Parentheticals and exhibit markings to begin no more
44 than fifteen spaces from the left-hand margin, with carry-over
45 lines to begin no more than fifteen spaces from the left-hand
46 margin.

47 (d) The provisions of sections one, two or three of this article
48 may not be waived or otherwise modified.

§47-27-4. Penalties for violations; civil actions; and damages.

1 A court reporter or the entity that produces and bills for the
2 transcript which violates the provisions of sections two or three
3 of this article is subject to civil penalty in a court of competent
4 jurisdiction as follows: Any party to a civil action, a court
5 reporter, attorney or other person who has been subject to a
6 violation of the provisions of sections two or three of this article
7 may recover, payable to the prevailing party, a civil penalty for
8 any willful violation of this section and the court shall assess a
9 civil penalty of no less than \$2,500 for each violation: *Provided,*
10 That no more than one civil penalty under this section may be
11 assessed in any one matter pending before the court; and if the
12 court finds that the court reporter has engaged in a course of
13 repeated and willful violations of this section, it may assess an
14 additional civil penalty of up to \$5,000 for each violation of this
15 section. For any action filed pursuant to this section, the court,
16 in its discretion, may award all or a portion of the costs of
17 litigation, including reasonable attorney fees, court costs and
18 fees, to the prevailing party.

CHAPTER 31

**(Com. Sub. for S. B. 204 - By Senators Unger
and Kessler (Mr. President))**

[Passed March 8, 2014; in effect from passage.]
[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §14-2A-3, §14-2A-9, §14-2A-12, §14-2A-14 and §14-2A-18 of the Code of West Virginia, 1931, as amended, all relating to compensation awards to victims of crimes generally; redefining terms; increasing the amount of victim relocation costs; allowing student loans obtained by a victim to be treated as a lost scholarship in certain instances; eliminating the authority to make awards of compensation for damage caused by operation of a methamphetamine laboratory under certain circumstances; modifying required time period in which a claimant should report offense to law enforcement under certain circumstances; requiring that a criminal complaint being filed is a prerequisite to receipt of compensation in certain circumstances; providing circumstances in which a criminal complaint need not be filed as a prerequisite to receipt of compensation; allowing victims of sexual offenses to undergo a forensic examination rather than reporting to law enforcement; permitting the Court of Claims to hire two additional claim investigators; and permitting claim investigators to acquire autopsy reports from the State Medical Examiner.

Be it enacted by the Legislature of West Virginia:

That §14-2A-3, §14-2A-9, §14-2A-12, §14-2A-14 and §14-2A-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF
CRIMES.****§14-2A-3. Definitions.**

1 As used in this article, the term:

2 (a) "Claimant" means any of the following persons, whether
3 residents or nonresidents of this state, who claim an award of
4 compensation under this article:

5 (1) A victim, except the term "victim" does not include a
6 nonresident of this state where the criminally injurious act did
7 not occur in this state;

8 (2) A dependent, spouse or minor child of a deceased victim
9 or, if the deceased victim is a minor, the parents, legal guardians
10 and siblings of the victim;

11 (3) A third person, other than a collateral source, who legally
12 assumes or voluntarily pays the obligations of a victim or a
13 victim's dependent when the obligations are incurred as a result
14 of the criminally injurious conduct that is the subject of the
15 claim;

16 (4) A person who is authorized to act on behalf of a victim,
17 dependent or a third person who is not a collateral source
18 including, but not limited to, assignees, persons holding power
19 of attorney or others who hold authority to make or submit
20 claims in place of or on behalf of a victim, a dependent or third
21 person who is not a collateral source and if the victim, dependent
22 or third person who is not a collateral source is a minor or other
23 legally incompetent person, their duly qualified fiduciary; and

24 (5) A person who is a secondary victim in need of mental
25 health counseling due to the person's exposure to the crime
26 committed whose award may not exceed \$1,000;

27 (b) “Collateral source” means a source of benefits or
28 advantages for economic loss otherwise compensable that the
29 victim or claimant has received or that is readily available to him
30 or her from any of the following sources:

31 (1) The offender, including restitution received from the
32 offender pursuant to an order by a court sentencing the offender
33 or placing him or her on probation following a conviction in a
34 criminal case arising from the criminally injurious act for which
35 a claim for compensation is made;

36 (2) The government of the United States or its agencies, a
37 state or its political subdivisions or an instrumentality of two or
38 more states;

39 (3) Social Security, Medicare and Medicaid;

40 (4) State-required, temporary, nonoccupational disability
41 insurance or other disability insurance;

42 (5) Workers’ compensation;

43 (6) Wage continuation programs of an employer;

44 (7) Proceeds of a contract of insurance payable to the victim
45 or claimant for loss that was sustained because of the criminally
46 injurious conduct;

47 (8) A contract providing prepaid hospital and other health
48 care services or benefits for disability; and

49 (9) That portion of the proceeds of all contracts of insurance
50 payable to the claimant on account of the death of the victim
51 which exceeds \$25,000.

52 (c) “Criminally injurious conduct” means conduct that
53 occurs or is attempted in this state, or in any state not having a

54 victim compensation program, which poses a substantial threat
55 of personal injury or death and is punishable by fine or
56 imprisonment. “Criminally injurious conduct” also includes
57 criminally injurious conduct committed outside of the United
58 States against a resident of this state. “Criminally injurious
59 conduct” does not include conduct arising out of the ownership,
60 maintenance or use of a motor vehicle unless the person
61 engaging in the conduct intended to cause personal injury or
62 death or committed negligent homicide, driving under the
63 influence of alcohol, controlled substances or drugs, leaving the
64 scene of the accident or reckless driving.

65 (d) “Dependent” means an individual who received over half
66 of his or her support from the victim. For the purpose of making
67 this determination there shall be taken into account the amount
68 of support received from the victim as compared to the entire
69 amount of support the individual received from all sources
70 including self-support. The term “support” includes, but is not
71 limited to, food, shelter, clothing, medical and dental care and
72 education. The term “dependent” includes a child of the victim
73 born after his or her death.

74 (e) “Economic loss” means economic detriment consisting
75 only of allowable expense, work loss and replacement services
76 loss. If criminally injurious conduct causes death, “economic
77 loss” includes a dependent’s economic loss and a dependent’s
78 replacement services loss. Noneconomic detriment is not
79 economic loss; however, economic loss may be caused by pain
80 and suffering or physical impairment. For purposes of this
81 article, the term “economic loss” includes a lost scholarship as
82 defined in this section.

83 (f) “Allowable expense” includes the following:

84 (1) Reasonable charges incurred or to be incurred for
85 reasonably needed products, services and accommodations

86 including those for medical care, mental health counseling,
87 prosthetic devices, eye glasses, dentures, rehabilitation and other
88 remedial treatment and care but does not include that portion of
89 a charge for a room in a hospital, clinic, convalescent home,
90 nursing home or other institution engaged in providing nursing
91 care and related services which is in excess of a reasonable and
92 customary charge for semiprivate accommodations unless
93 accommodations other than semiprivate accommodations are
94 medically required;

95 (2) A total charge not in excess of \$10,000 for expenses in
96 any way related to funerals, cremations and burials;

97 (3) Victim relocation costs not to exceed \$2,500;

98 (4) Reasonable travel expenses not to exceed \$1,000 for a
99 claimant to attend court proceedings conducted for the
100 prosecution of the offender;

101 (5) Reasonable travel expenses for a claimant to return a
102 person who is a minor or incapacitated adult who has been
103 unlawfully removed from this state to another state or country if
104 the removal constitutes a crime under the laws of this state which
105 may not exceed \$2,000 for expenses to another state or \$3,000
106 to another country; and

107 (6) Reasonable travel expenses for the transportation of a
108 victim to and from a medical facility.

109 (g) "Work loss" means loss of income from work that the
110 injured person would have performed if he or she had not been
111 injured and expenses reasonably incurred or to be incurred by
112 him or her to obtain services in lieu of those he or she would
113 have performed for income. "Work loss" is reduced by income
114 from substitute work actually performed or to be performed by
115 him or her or by income he or she would have earned in

116 available appropriate substitute work that he or she was capable
117 of performing but unreasonably failed to undertake. “Work loss”
118 also includes loss of income from work by the parent or legal
119 guardian of a minor victim who must miss work to take care of
120 the minor victim.

121 (h) “Replacement services loss” means expenses reasonably
122 incurred or to be incurred in obtaining ordinary and necessary
123 services in lieu of those the injured person would have
124 performed for the benefit of himself or herself or his or her
125 family if he or she had not been injured. “Replacement services
126 loss” does not include services an injured person would have
127 performed to generate income.

128 (i) “Dependent’s economic loss” means loss after a victim’s
129 death of contributions or things of economic value to his or her
130 dependents but does not include services they would have
131 received from the victim if he or she had not suffered the fatal
132 injury. This amount is reduced by expenses avoided by the
133 dependent due to the victim’s death.

134 (j) “Dependent’s replacement service loss” means loss
135 reasonably incurred or to be incurred by dependents after a
136 victim’s death in obtaining ordinary and necessary services in
137 lieu of those the victim would have performed for their benefit
138 if he or she had not suffered the fatal injury. This amount is
139 reduced by expenses avoided due to the victim’s death but which
140 are not already subtracted in calculating a dependent’s economic
141 loss.

142 (k) “Victim” means the following:

143 A person who suffers personal injury or death as a result of
144 any one of the following:

145 (A) Criminally injurious conduct;

146 (B) The good faith effort of the person to prevent criminally
147 injurious conduct; or

148 (C) The good faith effort of the person to apprehend a person
149 that the injured person has observed engaging in criminally
150 injurious conduct or who the injured person has reasonable cause
151 to believe has engaged in criminally injurious conduct
152 immediately prior to the attempted apprehension.

153 (l) “Contributory misconduct” means any conduct of the
154 claimant or of the victim through whom the claimant claims an
155 award that is unlawful or intentionally tortious and that, without
156 regard to the conduct’s proximity in time or space to the
157 criminally injurious conduct, has a causal relationship to the
158 criminally injurious conduct that is the basis of the claim and
159 includes the voluntary intoxication of the claimant, either by the
160 consumption of alcohol or the use of any controlled substance,
161 when the intoxication has a causal connection or relationship to
162 the injury sustained.

163 (m) “Lost scholarship” means a scholarship, academic
164 award, stipend, student loan or other monetary scholastic
165 assistance which had been awarded, conferred upon or obtained
166 by a victim in conjunction with a post-secondary school
167 educational program and which the victim is unable to receive or
168 use, in whole or in part, due to injuries received from criminally
169 injurious conduct.

**§14-2A-9. Claim investigators; compensation and expenses;
paralegals and support staff.**

1 The Court of Claims is hereby authorized to hire not more
2 than four claim investigators to be employed within the Office
3 of the clerk of the Court of Claims, who shall carry out the
4 functions and duties set forth in section twelve of this article.
5 Claim investigators shall serve at the pleasure of the Court of

6 Claims and under the administrative supervision of the Clerk of
7 the Court of Claims. The compensation of claim investigators
8 shall be fixed by the court, and such compensation, together with
9 travel, clerical and other expenses of the Clerk of the Court of
10 Claims relating to a claim investigator carrying out his or her
11 duties under this article, including the cost of obtaining reports
12 required by the investigator in investigating a claim, shall be
13 payable from the crime victims compensation fund as
14 appropriated for such purpose by the Legislature.

15 The Court of Claims is hereby authorized to hire as support
16 staff such paralegal or paralegals and secretary or secretaries to
17 be employed within the Office of the Clerk of the Court of
18 Claims, necessary to carry out the functions and duties of this
19 article. Such support staff shall serve at the will and pleasure of
20 the Court of Claims and under the administrative supervision of
21 the Clerk of the Court of Claims.

§14-2A-12. Investigation and recommendations by claim investigator.

1 (a) The clerk of the Court of Claims shall transmit a copy of
2 the application to the claim investigator within seven days after
3 the filing of the application.

4 (b) The claim investigator, upon receipt of an application for
5 an award of compensation from the Clerk of the Court of Claims,
6 shall investigate the claim. After completing the investigation,
7 the claim investigator shall make a written finding of fact and
8 recommendation concerning an award of compensation. He or
9 she shall file with the clerk the finding of fact and
10 recommendation and all information or documents that he or she
11 used in his or her investigation: *Provided*, That the claim
12 investigator shall not file information or documents which have
13 been the subject of a protective order entered under the
14 provisions of subsection (c) of this section.

15 (c) The claim investigator, while investigating the claim,
16 may require the claimant to supplement the application for an
17 award of compensation with any further information or
18 documentary materials, including any medical report readily
19 available, which may lead to any relevant facts aiding in the
20 determination of whether, and the extent to which, a claimant
21 qualifies for an award of compensation.

22 The claim investigator, while investigating the claim, may
23 also require law-enforcement officers and prosecuting attorneys
24 employed by the state or any political subdivision thereof, to
25 provide him or her with reports, information, witness statements
26 or other data gathered in the investigation of the criminally
27 injurious conduct that is the basis of any claim to enable him or
28 her to determine whether, and the extent to which, a claimant
29 qualifies for an award of compensation. The prosecuting attorney
30 and any officer or employee of the prosecuting attorney or of the
31 law-enforcement agency shall be immune from any civil liability
32 that might otherwise be incurred as the result of providing such
33 reports, information, witness statements or other data relating to
34 the criminally injurious conduct to the claim investigator.

35 The claim investigator, while investigating the claim, may
36 obtain autopsy reports including results from the Office of the
37 State Medical Examiner to be used solely for determining
38 eligibility for compensation awards.

39 Upon motion of any party, court or agency from whom such
40 reports, information, witness statements or other data is sought,
41 and for good cause shown, the court may make any order which
42 justice requires to protect a witness or other person, including,
43 but not limited to, the following: (1) That the reports,
44 information, witness statements or other data not be made
45 available; (2) that the reports, information, witness statements or
46 other data may be made available only on specified terms and
47 conditions, including a designation of time and place; (3) that the

48 reports, information, witness statements or other data be made
49 available only by a different method than that selected by the
50 claim investigator; (4) that certain matters not be inquired into,
51 or that the scope of the claim investigator's request be limited to
52 certain matters; (5) that the reports, information, witness
53 statements or other data be examined only by certain persons
54 designated by the court; (6) that the reports, information, witness
55 statements or other data, after being sealed, be opened only by
56 order of the court; and (7) that confidential information or the
57 identity of confidential witnesses or informers not be disclosed,
58 or disclosed only in a designated manner.

59 However, in any case wherein the claim investigator has
60 reason to believe that his or her investigation may interfere with
61 or jeopardize the investigation of a crime by law-enforcement
62 officers, or the prosecution of a case by prosecuting attorneys, he
63 or she shall apply to the Court of Claims, or a judge thereof, for
64 an order granting leave to discontinue his or her investigation for
65 a reasonable time in order to avoid such interference or
66 jeopardization. When it appears to the satisfaction of the court,
67 or judge, upon application by the claim investigator or in its own
68 discretion, that the investigation of a case by the claim
69 investigator will interfere with or jeopardize the investigation or
70 prosecution of a crime, the court, or judge, shall issue an order
71 granting the claim investigator leave to discontinue his or her
72 investigation for such time as the court, or judge, deems
73 reasonable to avoid such interference or jeopardization.

74 (d) The finding of fact that is issued by the claim
75 investigator pursuant to subsection (b) of this section shall
76 contain the following:

77 (1) Whether the criminally injurious conduct that is the basis
78 for the application did occur, the date on which the conduct
79 occurred and the exact nature of the conduct;

80 (2) If the criminally injurious conduct was reported to a
81 law-enforcement officer or agency, the date on which the
82 conduct was reported and the name of the person who reported
83 the conduct; or the reasons why the conduct was not reported to
84 a law-enforcement officer or agency; or the reasons why the
85 conduct was not reported to a law-enforcement officer or agency
86 within seventy-two hours after the conduct occurred;

87 (3) The exact nature of the injuries that the victim sustained
88 as a result of the criminally injurious conduct;

89 (4) If the claim investigator is recommending that an award
90 be made, a specific itemization of the economic loss that was
91 sustained by the victim, the claimant or a dependent as a result
92 of the criminally injurious conduct;

93 (5) If the claim investigator is recommending that an award
94 be made, a specific itemization of any benefits or advantages that
95 the victim, the claimant or a dependent has received or is entitled
96 to receive from any collateral source for economic loss that
97 resulted from the conduct;

98 (6) Whether the claimant is the spouse, parent, child, brother
99 or sister of the offender, or is similarly related to an accomplice
100 of the offender who committed the criminally injurious conduct;

101 (7) Any information which might be a basis for a reasonable
102 reduction or denial of a claim because of contributory
103 misconduct of the claimant or of a victim through whom he or
104 she claims;

105 (8) Any additional information that the claim investigator
106 deems to be relevant to the evaluation of the claim.

107 (e) The recommendation that is issued by the claim
108 investigator pursuant to subsection (b) of this section shall
109 contain the following:

110 (1) Whether an award of compensation should be made to
111 the claimant and the amount of the award;

112 (2) If the claim investigator recommends that an award not
113 be made to the claimant, the reason for his or her decision.

114 (f) The claim investigator shall file his or her finding of fact
115 and recommendation with the clerk within six months after the
116 filing of the application: *Provided*, That where there is active
117 criminal investigation or prosecution of the person or persons
118 alleged to have committed the criminally injurious conduct
119 which is the basis for the claimant's claim, the claim investigator
120 shall file his or her finding of fact and recommendation within
121 six months after the first of any final convictions or other final
122 determinations as to innocence or guilt, or any other final
123 disposition of criminal proceedings. In any case, an additional
124 time period may be provided by order of any Court of Claims
125 judge or commissioner upon good cause shown.

**§14-2A-14. Grounds for denial of claim or reduction of awards;
maximum awards.**

1 (a) Except as provided in subsection (b), section ten of this
2 article, the judge or commissioner may not approve an award of
3 compensation to a claimant who did not file his or her
4 application for an award of compensation within two years after
5 the date of the occurrence of the criminally injurious conduct
6 that caused the injury or death for which he or she is seeking an
7 award of compensation.

8 (b) The judge or commissioner may not approve an award of
9 compensation if the criminally injurious conduct upon which the
10 claim is based was not reported to a law-enforcement officer or
11 agency or, in the case of sexual offense, the claimant did not
12 undergo a forensic medical examination, within ninety-six hours
13 after the occurrence of the conduct, unless it is determined that

14 good cause existed for the failure to report the conduct or
15 undergo a forensic medical examination within the 96-hour
16 period: *Provided*, That no reporting to a law-enforcement officer
17 or agency or a forensic medical examination is required if the
18 claimant is a juvenile in order for a judge or commissioner to
19 approve an award of compensation.

20 (c) The judge or commissioner may not approve an award of
21 compensation to a claimant who is the offender or an accomplice
22 of the offender who committed the criminally injurious conduct,
23 nor to any claimant if the award would unjustly benefit the
24 offender or his or her accomplice.

25 (d) A judge or commissioner, upon a finding that the
26 claimant or victim has not fully cooperated with appropriate law-
27 enforcement agencies or the claim investigator, may deny a
28 claim, reduce an award of compensation or reconsider a claim
29 already approved.

30 (e) A judge or commissioner may not approve an award of
31 compensation if the injury occurred while the victim was
32 confined in any state, county or regional jail, prison, private
33 prison or correctional facility.

34 (f) After reaching a decision to approve an award of
35 compensation, but prior to announcing the approval, the judge or
36 commissioner shall require the claimant to submit current
37 information as to collateral sources on forms prescribed by the
38 Clerk of the Court of Claims. The judge or commissioner shall
39 reduce an award of compensation or deny a claim for an award
40 of compensation that is otherwise payable to a claimant to the
41 extent that the economic loss upon which the claim is based is or
42 will be recouped from other persons, including collateral
43 sources, or if the reduction or denial is determined to be
44 reasonable because of the contributory misconduct of the
45 claimant or of a victim through whom he or she claims. If an
46 award is reduced or a claim is denied because of the expected

47 recoupment of all or part of the economic loss of the claimant
48 from a collateral source, the amount of the award or the denial
49 of the claim shall be conditioned upon the claimant's economic
50 loss being recouped by the collateral source: *Provided*, That if
51 it is thereafter determined that the claimant will not receive all
52 or part of the expected recoupment, the claim shall be reopened
53 and an award shall be approved in an amount equal to the
54 amount of expected recoupment that it is determined the
55 claimant will not receive from the collateral source, subject to
56 the limitation set forth in subsection (g) of this section.

57 (g) (1) Except in the case of death, or as provided in
58 subdivision (2) of this subsection, compensation payable to a
59 victim and to all other claimants sustaining economic loss
60 because of injury to that victim may not exceed \$35,000 in the
61 aggregate. Compensation payable to all claimants because of the
62 death of the victim may not exceed \$50,000 in the aggregate.

63 (2) In the event the victim's personal injuries are so severe
64 as to leave the victim with a disability, as defined in Section 223
65 of the Social Security Act, as amended, as codified in 42 U. S.
66 C.§423, the court may award an additional amount, not to exceed
67 \$100,000, for special needs attributable to the injury.

68 (h) If an award of compensation of \$5,000 or more is made
69 to a minor, a guardian shall be appointed pursuant to the
70 provisions of article ten, chapter forty-four of this code to
71 manage the minor's estate.

**§14-2A-18. Effect of no criminal charges being filed or conviction
of offender.**

1 The court, or a judge or commissioner thereof, may approve
2 an award of compensation whether or not any person is
3 convicted for committing the conduct that is the basis of the
4 award. The filing of a criminal charge shall be a prerequisite for

5 receipt of compensation *Provided*, That no criminal charges
6 need be filed if: (1) The claimant is an adult at the time the
7 conduct giving rise to the claim occurred and no criminal
8 charges were filed for reasons other than the desire of the
9 claimant and a law-enforcement agency confirms that the
10 available evidence supports a finding that a crime occurred; or
11 (2) the claimant was a juvenile at the time the conduct giving
12 rise to the claim occurred. Proof of conviction of a person whose
13 conduct gave rise to a claim is conclusive evidence that the
14 crime was committed, unless an application for rehearing, an
15 appeal of the conviction or certiorari is pending, or a rehearing
16 or new trial has been ordered.

17 The court, or a judge or commissioner thereof, shall suspend,
18 upon a request of the claim investigator, the proceedings in any
19 claim for an award of compensation pending disposition of a
20 criminal prosecution that has been commenced or is imminent.

CHAPTER 32

**(H. B. 4445 - By Delegates Eldridge, Hartman,
Barrett, Fleischauer, Campbell, Hamilton,
Lynch and Sponaugle)**

[Amended and again passed March 14, 2014, as a result of
the objections of the Governor; in effect ninety days from passage.]
[Approved by the Governor on March 31, 2014.]

AN ACT to amend and reenact §61-2-9 and §61-2-28 of the Code of West Virginia, 1931, as amended, all relating to amending the elements of assault and battery; and modifying the elements of “assault”, “battery”, “domestic assault” and “domestic battery” to include the use or attempted use of physical force.

Be it enacted by the Legislature of West Virginia:

That §61-2-9 and §61-2-28 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-9. Malicious or unlawful assault; assault; battery; penalties.

1 (a) If any person maliciously shoot, stab, cut or wound any
2 person, or by any means cause him or her bodily injury with
3 intent to maim, disfigure, disable or kill, he or she shall, except
4 where it is otherwise provided, be guilty of a felony and, upon
5 conviction, shall be punished by confinement in a state
6 correctional facility not less than two nor more than ten years. If
7 such act be done unlawfully, but not maliciously, with the intent
8 aforesaid, the offender is guilty of a felony and, upon conviction,
9 shall either be confined in a state correctional facility not less
10 than one nor more than five years, or be confined in jail not
11 exceeding twelve months and fined not exceeding \$500.

12 (b) *Assault.* — Any person who unlawfully attempts to use
13 physical force capable of causing physical pain or injury to the
14 person of another or unlawfully commits an act that places
15 another in reasonable apprehension of immediately suffering
16 physical pain or injury, he or she is guilty of a misdemeanor and,
17 upon conviction, shall be confined in jail for not more than six
18 months, or fined not more than \$100, or both fined and confined.

19 (c) *Battery.* — Any person who unlawfully and intentionally
20 makes physical contact with force capable of causing physical
21 pain or injury to the person of another or unlawfully and
22 intentionally causes physical pain or injury to another person, he
23 or she is guilty of a misdemeanor and, upon conviction, shall be
24 confined in jail for not more than twelve months, or fined not
25 more than \$500, or both fined and confined.

26 (d) Any person convicted of a violation of subsection (b) or
27 (c) of this section who has, in the ten years prior to said
28 conviction, been convicted of a violation of either subsection (b)
29 or (c) of this section where the victim was a current or former
30 spouse, current or former sexual or intimate partner, a person
31 with whom the defendant has a child in common, a person with
32 whom the defendant cohabits or has cohabited, a parent or
33 guardian, the defendant's child or ward or a member of the
34 defendant's household at the time of the offense or convicted of
35 a violation of section twenty-eight of this article or has served a
36 period of pretrial diversion for an alleged violation of subsection
37 (b) or (c) of this section or section twenty-eight of this article
38 when the victim has such present or past relationship shall upon
39 conviction be subject to the penalties set forth in section twenty-
40 eight of this article for a second, third or subsequent criminal act
41 of domestic violence offense, as appropriate.

§61-2-28. Domestic violence — Criminal acts.

1 (a) *Domestic battery.* — Any person who unlawfully and
2 intentionally makes physical contact with force capable of
3 causing physical pain or injury to his or her family or household
4 member or unlawfully and intentionally causes physical harm to
5 his or her family or household member, is guilty of a
6 misdemeanor and, upon conviction thereof, shall be confined in
7 jail for not more than twelve months, or fined not more than
8 \$500, or both fined and confined.

9 (b) *Domestic assault.* — Any person who unlawfully
10 attempts to use force capable of causing physical pain or injury
11 against his or her family or household member or unlawfully
12 commits an act that places his or her family or household
13 member in reasonable apprehension of immediately suffering
14 physical pain or injury, is guilty of a misdemeanor and, upon
15 conviction thereof, shall be confined in jail for not more than six
16 months, or fined not more than \$100, or both fined and confined.

17 (c) *Second offense.* — Domestic assault or domestic battery.

18 A person convicted of a violation of subsection (a) of this
19 section after having been previously convicted of a violation of
20 subsection (a) or (b) of this section, after having been convicted
21 of a violation of subsection (b) or (c), section nine of this article
22 or subsection (a), section fourteen-g of this article where the
23 victim was his or her current or former spouse, current or former
24 sexual or intimate partner, person with whom the defendant has
25 a child in common, person with whom the defendant cohabits or
26 has cohabited, a parent or guardian, the defendant's child or
27 ward or a member of the defendant's household at the time of
28 the offense or who has previously been granted a period of
29 pretrial diversion pursuant to section twenty-two, article eleven
30 of this chapter for a violation of subsection (a) or (b) of this
31 section, or a violation of subsection (b) or (c), section nine of
32 this article or subsection (a), section fourteen-g of this article
33 where the victim was a current or former spouse, current or
34 former sexual or intimate partner, person with whom the
35 defendant has a child in common, person with whom the
36 defendant cohabits or has cohabited, a parent or guardian, the
37 defendant's child or ward or a member of the defendant's
38 household at the time of the offense is guilty of a misdemeanor
39 and, upon conviction thereof, shall be confined in jail for not less
40 than sixty days nor more than one year, or fined not more than
41 \$1,000, or both fined and confined.

42 A person convicted of a violation of subsection (b) of this
43 section after having been previously convicted of a violation of
44 subsection (a) or (b) of this section, after having been convicted
45 of a violation of subsection (b) or (c), section nine of this article
46 or subsection (a), section fourteen-g of this article where the
47 victim was a current or former spouse, current or former sexual
48 or intimate partner, person with whom the defendant has a child
49 in common, person with whom the defendant cohabits or has
50 cohabited, a parent or guardian, the defendant's child or ward or

51 a member of the defendant's household at the time of the offense
52 or having previously been granted a period of pretrial diversion
53 pursuant to section twenty-two, article eleven of this chapter for
54 a violation of subsection (a) or (b) of this section or subsection
55 (b) or (c), section nine of this article or subsection (a), section
56 fourteen-g of this article where the victim was a current or
57 former spouse, current or former sexual or intimate partner,
58 person with whom the defendant has a child in common, person
59 with whom the defendant cohabits or has cohabited, a parent or
60 guardian, the defendant's child or ward or a member of the
61 defendant's household at the time of the offense shall be
62 confined in jail for not less than thirty days nor more than six
63 months, or fined not more than \$500, or both fined and confined.

64 (d) Any person who has been convicted of a third or
65 subsequent violation of the provisions of subsection (a) or (b) of
66 this section, a third or subsequent violation of the provisions of
67 section nine of this article or subsection (a), section fourteen-g
68 of this article where the victim was a current or former spouse,
69 current or former sexual or intimate partner, person with whom
70 the defendant has a child in common, person with whom the
71 defendant cohabits or has cohabited, a parent or guardian, the
72 defendant's child or ward or a member of the defendant's
73 household at the time of the offense or who has previously been
74 granted a period of pretrial diversion pursuant to section twenty-
75 two, article eleven of this chapter for a violation of subsection
76 (a) or (b) of this section or a violation of the provisions of
77 section nine of this article or subsection (a), section fourteen-g
78 of this article in which the victim was a current or former spouse,
79 current or former sexual or intimate partner, person with whom
80 the defendant has a child in common, person with whom the
81 defendant cohabits or has cohabited, a parent or guardian, the
82 defendant's child or ward or a member of the defendant's
83 household at the time of the offense, or any combination of
84 convictions or diversions for these offenses, is guilty of a felony
85 if the offense occurs within ten years of a prior conviction of any

86 of these offenses and, upon conviction thereof, shall be confined
87 in a state correctional facility not less than one nor more than
88 five years or fined not more than \$2,500, or both fined and
89 confined.

90 (e) As used in this section, “family or household member”
91 means “family or household member” as defined in §48-27-204
92 of this code.

93 (f) A person charged with a violation of this section may not
94 also be charged with a violation of subsection (b) or (c), section
95 nine of this article for the same act.

96 (g) No law-enforcement officer may be subject to any civil
97 or criminal action for false arrest or unlawful detention for
98 effecting an arrest pursuant to this section or pursuant to §48-27-
99 1002 of this code.

CHAPTER 33

**(Com. Sub. for S. B. 397 - By Senators Williams,
Laird, Unger, Tucker, Plymale, Palumbo and Stollings)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 18, 2014.]

AN ACT to amend and reenact §61-2-29b of the Code of West Virginia, 1931, as amended, relating to clarifying definition of “financial exploitation” of the elderly or certain other protected persons; and declaring that being a guardian, conservator, trustee or attorney or holding power of attorney is statutorily alone not a defense to financial exploitation.

Be it enacted by the Legislature of West Virginia:

That §61-2-29b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-29b. Financial exploitation of an elderly person, protected person or incapacitated adult; penalties; definitions.

1 (a) Any person who financially exploits an elderly person,
2 protected person or an incapacitated adult shall be guilty of
3 larceny and subject to the penalties contained in section thirteen,
4 article three of this chapter. Any person convicted of a violation
5 of this section shall, in addition to any other penalties at law, be
6 subject to an order of restitution.

7 (b) In determining the value of the money, goods, property
8 or services referred to in subsection (a) of this section, it shall be
9 permissible to cumulate amounts or values where such money,
10 goods, property or services were fraudulently obtained as part of
11 a common scheme or plan.

12 (c) Financial institutions and their employees, as defined by
13 section one, article two-a, chapter thirty-one-a of this code and
14 as permitted by section four, subsection thirteen of said article,
15 others engaged in financially related activities, as defined by
16 section one, article eight-c, chapter thirty-one-a of this code,
17 caregivers, relatives and other concerned persons are permitted
18 to report suspected cases of financial exploitation to state or
19 federal law-enforcement authorities, the county prosecuting
20 attorney and to the Department of Health and Human Resources,
21 Adult Protective Services Division or Medicaid Fraud Division,
22 as appropriate. Public officers and employees are required to
23 report suspected cases of financial exploitation to the appropriate
24 entities as stated above. The requisite agencies shall investigate
25 or cause the investigation of the allegations.

26 (d) When financial exploitation is suspected and to the
27 extent permitted by federal law, financial institutions and their
28 employees or other business entities required by federal law or
29 regulation to file suspicious activity reports and currency
30 transaction reports shall also be permitted to disclose suspicious
31 activity reports or currency transaction reports to the prosecuting
32 attorney of any county in which the transactions underlying the
33 suspicious activity reports or currency transaction reports
34 occurred.

35 (e) Any person or entity that in good faith reports a
36 suspected case of financial exploitation pursuant to this section
37 is immune from civil liability founded upon making that report.

38 (f) For the purposes of this section:

39 (1) "Incapacitated adult" means a person as defined by
40 section twenty-nine of this article;

41 (2) "Elderly person" means a person who is sixty-five years
42 or older;

43 (3) "Financial exploitation" or "financially exploit" means
44 the intentional misappropriation or misuse of funds or assets of
45 an elderly person, protected person or incapacitated adult, but
46 shall not apply to a transaction or disposition of funds or assets
47 where the accused made a good-faith effort to assist the elderly
48 person, protected person or incapacitated adult with the
49 management of his or her money or other things of value; and

50 (4) "Protected person" means any person who is defined as
51 a "protected person" in section four, article one, chapter
52 forty-four-a of this code and who is subject to the protections of
53 chapter forty-four-a or forty-four-c of this code.

54 (g) Notwithstanding any provision of this code to the
55 contrary, acting as guardian, conservator, trustee or attorney for

56 or holding power of attorney for an elderly person, protected
 57 person or incapacitated adult shall not, standing alone, constitute
 58 a defense to a violation of subsection (a) of this section.

CHAPTER 34

**(Com. Sub. for S. B. 90 - By Senators Laird,
 Cookman and Fitzsimmons)**

[Passed March 5, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 18, 2014.]

AN ACT to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to creating a criminal offense for interfering with or preventing a person from calling for the assistance of emergency service personnel; defining terms; and establishing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §61-5-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-17. Obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; penalties; definitions.

1 (a) A person who by threats, menaces, acts or otherwise
 2 forcibly or illegally hinders or obstructs or attempts to hinder or
 3 obstruct a law-enforcement officer, probation officer or parole
 4 officer acting in his or her official capacity is guilty of a
 5 misdemeanor and, upon conviction thereof, shall be fined not

6 less than \$50 nor more than \$500 or confined in jail not more
7 than one year, or both fined and confined.

8 (b) A person who intentionally disarms or attempts to disarm
9 a law-enforcement officer, correctional officer, probation officer
10 or parole officer, acting in his or her official capacity, is guilty
11 of a felony and, upon conviction thereof, shall be imprisoned in
12 a state correctional facility not less than one nor more than five
13 years.

14 (c) A person who, with intent to impede or obstruct a
15 law-enforcement officer in the conduct of an investigation of a
16 felony offense, knowingly and willfully makes a materially false
17 statement is guilty of a misdemeanor and, upon conviction
18 thereof, shall be fined not less than \$25 nor more than \$200, or
19 confined in jail for five days, or both fined and confined. The
20 provisions of this section do not apply to statements made by a
21 spouse, parent, stepparent, grandparent, sibling, half sibling,
22 child, stepchild or grandchild, whether related by blood or
23 marriage, of the person under investigation. Statements made by
24 the person under investigation may not be used as the basis for
25 prosecution under this subsection. For purposes of this
26 subsection, "law-enforcement officer" does not include a
27 watchman, a member of the West Virginia State Police or
28 college security personnel who is not a certified
29 law-enforcement officer.

30 (d) A person who intentionally flees or attempts to flee by
31 any means other than the use of a vehicle from a
32 law-enforcement officer, probation officer or parole officer
33 acting in his or her official capacity who is attempting to make
34 a lawful arrest of the person, and who knows or reasonably
35 believes that the officer is attempting to arrest him or her, is
36 guilty of a misdemeanor and, upon conviction thereof, shall be
37 fined not less than \$50 nor more than \$500 or confined in jail not
38 more than one year, or both.

39 (e) A person who intentionally flees or attempts to flee in a
40 vehicle from a law-enforcement officer, probation officer or
41 parole officer acting in his or her official capacity after the
42 officer has given a clear visual or audible signal directing the
43 person to stop is guilty of a misdemeanor and, upon conviction
44 thereof, shall be fined not less than \$500 nor more than \$1,000
45 and shall be confined in a regional jail not more than one year.

46 (f) A person who intentionally flees or attempts to flee in a
47 vehicle from a law-enforcement officer, probation officer or
48 parole officer acting in his or her official capacity after the
49 officer has given a clear visual or audible signal directing the
50 person to stop, and who operates the vehicle in a manner
51 showing a reckless indifference to the safety of others, is guilty
52 of a felony and, upon conviction thereof, shall be fined not less
53 than \$1,000 nor more than \$2,000 and shall be imprisoned in a
54 state correctional facility not less than one nor more than five
55 years.

56 (g) A person who intentionally flees or attempts to flee in a
57 vehicle from a law-enforcement officer, probation officer or
58 parole officer acting in his or her official capacity after the
59 officer has given a clear visual or audible signal directing the
60 person to stop, and who causes damage to the real or personal
61 property of a person during or resulting from his or her flight, is
62 guilty of a misdemeanor and, upon conviction thereof, shall be
63 fined not less than \$1,000 nor more than \$3,000 and shall be
64 confined in jail for not less than six months nor more than one
65 year.

66 (h) A person who intentionally flees or attempts to flee in a
67 vehicle from a law-enforcement officer, probation officer or
68 parole officer acting in his or her official capacity after the
69 officer has given a clear visual or audible signal directing the
70 person to stop, and who causes bodily injury to a person during
71 or resulting from his or her flight, is guilty of a felony and, upon

72 conviction thereof, shall be imprisoned in a state correctional
73 facility not less than three nor more than ten years.

74 (i) A person who intentionally flees or attempts to flee in a
75 vehicle from a law-enforcement officer, probation officer or
76 parole officer acting in his or her official capacity after the
77 officer has given a clear visual or audible signal directing the
78 person to stop, and who causes death to a person during or
79 resulting from his or her flight, is guilty of a felony and, upon
80 conviction thereof, shall be imprisoned in a state correctional
81 facility for not less than five nor more than fifteen years. A
82 person imprisoned pursuant to this subsection is not eligible for
83 parole prior to having served a minimum of three years of his or
84 her sentence or the minimum period required by section thirteen,
85 article twelve, chapter sixty-two of this code, whichever is
86 greater.

87 (j) A person who intentionally flees or attempts to flee in a
88 vehicle from a law-enforcement officer, probation officer or
89 parole officer acting in his or her official capacity after the
90 officer has given a clear visual or audible signal directing the
91 person to stop, and who is under the influence of alcohol,
92 controlled substances or drugs, is guilty of a felony and, upon
93 conviction thereof, shall be imprisoned in a state correctional
94 facility not less than three nor more than ten years.

95 (k) For purposes of this section, the term "vehicle" includes
96 any motor vehicle, motorcycle, motorboat, all-terrain vehicle or
97 snowmobile as those terms are defined in section one, article
98 one, chapter seventeen-a of this code, whether or not it is being
99 operated on a public highway at the time and whether or not it is
100 licensed by the state.

101 (l) For purposes of this section, the terms "flee", "fleeing"
102 and "flight" do not include a person's reasonable attempt to
103 travel to a safe place, allowing the pursuing law-enforcement

104 officer to maintain appropriate surveillance, for the purpose of
105 complying with the officer's direction to stop.

106 (m) The revisions to subsections (e), (f), (g) and (h) of this
107 section enacted during the regular session of the 2010 regular
108 legislative session shall be known as the Jerry Alan Jones Act.

109 (n) (1) No person, with the intent to purposefully deprive
110 another person of emergency services, may interfere with or
111 prevent another person from making an emergency
112 communication, which a reasonable person would consider
113 necessary under the circumstances, to law-enforcement, fire, or
114 emergency medical service personnel.

115 (2) For the purpose of this subsection, the term "interfere
116 with or prevent" includes, but is not limited to, seizing,
117 concealing, obstructing access to or disabling or disconnecting
118 a telephone, telephone line or equipment or other communication
119 device.

120 (3) For the purpose of this subsection, the term "emergency
121 communication" means communication to transmit warnings or
122 other information pertaining to a crime, fire, accident, power
123 outage, disaster or risk of injury or damage to a person or
124 property.

125 (4) A person who violates this subsection is guilty of a
126 misdemeanor and, upon conviction thereof, shall be confined in
127 jail for a period of not less than one day nor more than one year
128 and shall be fined not less than \$250 nor more than \$2,000, or
129 both.

130 (5) A person who is convicted of a second offense under this
131 subsection is guilty of a misdemeanor and, upon conviction
132 thereof, shall be confined in jail for not less than three months
133 nor more than one year and fined not less than \$500 nor more
134 than \$3,000, or both.

135 (6) A person who is convicted of a third or subsequent
136 offense under this subsection is guilty of a misdemeanor and,
137 upon conviction thereof, shall be confined in jail not less than six
138 months nor more than one year and fined not less than \$500 nor
139 more than \$4,000, or both.

140 (7) In determining the number of prior convictions for
141 purposes of imposing punishment under this subsection, the
142 court shall disregard all such prior convictions occurring more
143 than ten years prior to the offense in question.

CHAPTER 35

**(H. B. 4006 - By Delegates L. Phillips, Rowan,
Fleischauer, Sobonya, Guthrie, Sumner, Lawrence, Miller,
Poore, Border and Arvon)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §61-8C-3 of the Code of West Virginia, 1931, as amended, relating to crimes pertaining to the possession, transmission, transportation, distribution and exhibiting of material depicting minors in sexually explicit conduct; adding the accessing of such materials with intent to view as a defined offense; creating an enhanced penalties for possessing, accessing with intent to view, transporting, receiving or distributing files or materials based on the number of images in a digital, photographic or video format which depict minors engaging in sexually explicit conduct or depict acts of bestiality involving a child; and setting a number of images based on length for video film or similar media.

Be it enacted by the Legislature of West Virginia:

That §61-8C-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT
CONDUCT OF MINORS.**

**§61-8C-3. Distribution and exhibiting of material depicting minors
engaged in sexually explicit conduct prohibited;
penalty.**

1 (a) Any person who, knowingly and willfully, sends or
2 causes to be sent or distributes, exhibits, possesses,
3 electronically accesses with intent to view or displays or
4 transports any material visually portraying a minor engaged in
5 any sexually explicit conduct is guilty of a felony.

6 (b) Any person who violates the provisions of subsection (a)
7 of this section when the conduct involves fifty or fewer images
8 shall, upon conviction, be imprisoned in a state correctional
9 facility for not more than two years or fined not more than
10 \$2,000 or both.

11 (c) Any person who violates the provisions of subsection (a)
12 of this section when the conduct involves more than fifty but
13 fewer than six hundred images shall, upon conviction, be
14 imprisoned in a state correctional facility for not less than two
15 nor more than ten years or fined not more than \$5,000, or both.

16 (d) Notwithstanding the provisions of subsections (b) and (c)
17 of this section any person who violates the provisions of
18 subsection (a) of this section when the conduct involves six
19 hundred or more images or depicts violence against a child or a
20 child engaging in bestiality shall, upon conviction, be
21 imprisoned in a state correctional facility for not less than five
22 nor more than fifteen years or fined not more than \$25,000, or
23 both.

24 (e) For purposes of this section each video clip, movie or
25 similar recording of five minutes or less shall constitute seventy-
26 five images. A video clip, movie or similar recording of a
27 duration longer than five minutes shall be deemed to constitute
28 seventy-five images for every two minutes in length it exceeds
29 five minutes.

CHAPTER 36

**(Com. Sub. for H. B. 4005 - By Delegates L. Phillips,
Rowan, Fleischauer, Border, Lawrence, Guthrie,
P. Smith, Marshall and Poore)**

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §61-8D-1, §61-8D-3, §61-8D-4 and §61-8D-9 of the Code of West Virginia, 1931, as amended, relating to offenses of child abuse and neglect by a parent, guardian or custodian; defining terms and creating exceptions to terms; creating a criminal offense for child abuse by a parent, guardian or custodian which creates a substantial risk of bodily injury; establishing misdemeanor penalties for a first and second offense; providing that those convicted of a first or second offense may be required to undergo certain counseling; making a conviction of a third or subsequent offense a felony and establishing criminal penalties; stating that reasonable discipline of a child is not precluded by the child abuse crimes; making it a felony for a parent, guardian or custodian to grossly neglect a child which creates substantial risk of serious bodily injury or death; creating a criminal offense of child neglect by a parent, guardian or custodian which creates a substantial risk of bodily injury with misdemeanor penalties for first and second offenses and felony penalties for third and subsequent offenses; providing that a parent,

guardian or custodian convicted of a misdemeanor is not required to register as a person convicted of child abuse or neglect or suffer other potential collateral consequences; permitting a person convicted of a misdemeanor to also be required to complete certain counseling; providing that a parent, guardian or custodian convicted of a misdemeanor is not required to register as a person convicted of child abuse or neglect and may not, solely because of the conviction, have their custody, visitation or parental rights automatically restricted; and requiring the court to declare a person an abusing parent under article six, chapter forty-nine of this code if they are convicted of a felony offense under this article.

Be it enacted by the Legislature of West Virginia:

That §61-8D-1, §61-8D-3, §61-8D-4 and §61-8D-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8D. CHILD ABUSE.

§61-8D-1. Definitions.

1 In this article, unless a different meaning is plainly required:

2 (1) “Abuse” means the infliction upon a minor of physical
3 injury by other than accidental means.

4 (2) “Child” means any person under eighteen years of age
5 not otherwise emancipated by law.

6 (3) “Controlled substance” means controlled substance as
7 that term is defined in subsection (d), section one hundred one,
8 article one, chapter sixty-a of this code.

9 (4) “Custodian” means a person over the age of fourteen
10 years who has or shares actual physical possession or care and
11 custody of a child on a full-time or temporary basis, regardless

12 of whether such person has been granted custody of the child by
13 any contract, agreement or legal proceeding. "Custodian" shall
14 also include, but not be limited to, the spouse of a parent,
15 guardian or custodian, or a person cohabiting with a parent,
16 guardian or custodian in the relationship of husband and wife,
17 where such spouse or other person shares actual physical
18 possession or care and custody of a child with the parent,
19 guardian or custodian.

20 (5) "Guardian" means a person who has care and custody of
21 a child as the result of any contract, agreement or legal
22 proceeding.

23 (6) "Gross neglect" means reckless or intentional conduct,
24 behavior or inaction by a parent, guardian or custodian that
25 evidences a clear disregard for a minor child's health, safety or
26 welfare.

27 (7) "Neglect" means the unreasonable failure by a parent,
28 guardian or custodian of a minor child to exercise a minimum
29 degree of care to assure the minor child's physical safety or
30 health. For purposes of this article, the following do not
31 constitute "neglect" by a parent, guardian or custodian:

32 (A) Permitting a minor child to participate in athletic
33 activities or other similar activities that if done properly are not
34 inherently dangerous, regardless of whether that participation
35 creates a risk of bodily injury;

36 (B) Exercising discretion in choosing a lawful method of
37 educating a minor child; or

38 (C) Exercising discretion in making decisions regarding the
39 nutrition and medical care provided to a minor child based upon
40 religious conviction or reasonable personal belief.

41 (8) "Parent" means the biological father or mother of a child,
42 or the adoptive mother or father of a child.

43 (9) "Sexual contact" means sexual contact as that term is
44 defined in section one, article eight-b, chapter sixty-one of this
45 code.

46 (10) "Sexual exploitation" means an act whereby:

47 (A) A parent, custodian, guardian or other person in a
48 position of trust to a child, whether for financial gain or not,
49 persuades, induces, entices or coerces the child to engage in
50 sexually explicit conduct as that term is defined in section one,
51 article eight-c, chapter sixty-one of this code; or

52 (B) A parent, guardian, custodian or other person in a
53 position of trust in relation to a child persuades, induces, entices
54 or coerces the child to display his or her sex organs for the
55 sexual gratification of the parent, guardian, custodian, person in
56 a position of trust or a third person, or to display his or her sex
57 organs under circumstances in which the parent, guardian,
58 custodian or other person in a position of trust knows such
59 display is likely to be observed by others who would be
60 affronted or alarmed.

61 (11) "Sexual intercourse" means sexual intercourse as that
62 term is defined in section one, article eight-b, chapter sixty-one
63 of this code.

64 (12) "Sexual intrusion" means sexual intrusion as that term
65 is defined in section one, article eight-b, chapter sixty-one of this
66 code.

67 (13) A "person in a position of trust in relation to a child"
68 refers to any person who is acting in the place of a parent and
69 charged with any of a parent's rights, duties or responsibilities
70 concerning a child or someone responsible for the general
71 supervision of a child's welfare, or any person who by virtue of
72 their occupation or position is charged with any duty or

73 responsibility for the health, education, welfare, or supervision
74 of the child.

§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.

1 (a) If any parent, guardian or custodian shall abuse a child
2 and by such abuse cause such child bodily injury as such term is
3 defined in section one, article eight-b of this chapter, then such
4 parent, guardian or custodian shall be guilty of a felony and,
5 upon conviction thereof, shall be fined not less than \$100 nor
6 more than \$1,000 and imprisoned in a state correctional facility
7 for not less than one nor more than five years, or in the
8 discretion of the court, be confined in jail for not more than one
9 year.

10 (b) If any parent, guardian or custodian shall abuse a child
11 and by such abuse cause said child serious bodily injury as such
12 term is defined in section one, article eight-b of this chapter, then
13 such parent, guardian or custodian shall be guilty of a felony
14 and, upon conviction thereof, shall be fined not less than \$1,000
15 nor more than \$5,000 and committed to the custody of the
16 Division of Corrections not less than two nor more than ten
17 years.

18 (c) Any parent, guardian or custodian who abuses a child and
19 by the abuse creates a substantial risk of death or serious bodily
20 injury, as serious bodily injury is defined in section one, article
21 eight-b of this chapter, to the child is guilty of a felony and, upon
22 conviction thereof, shall be fined not more than \$3,000 or
23 imprisoned in a state correctional facility for not less than one
24 nor more than five years, or both.

25 (d)(1) If a parent, guardian or custodian who has not
26 previously been convicted under this section, section four of this
27 article or a law of another state or the federal government with
28 the same essential elements abuses a child and by the abuse
29 creates a substantial risk of bodily injury, as bodily injury is

30 defined in section one, article eight-b of this chapter, to the child
31 is guilty of a misdemeanor and, upon conviction thereof, shall be
32 fined not less than \$100 nor more than \$1,000 or confined in jail
33 not more than six months, or both.

34 (2) For a second offense under this subsection or for a person
35 with one prior conviction under this section, section four of this
36 article or a law of another state or the federal government with
37 the same essential elements, the parent, guardian or custodian is
38 guilty of a misdemeanor and, upon conviction thereof, shall be
39 fined not more than \$1,500 and confined in jail not less than
40 thirty days nor more than one year, or both.

41 (3) For a third or subsequent offense under this subsection or
42 for a person with two or more prior convictions under this
43 section, section four of this article or a law of another state or the
44 federal government with the same essential elements, the parent,
45 guardian or custodian is guilty of a felony and, upon conviction
46 thereof, shall be fined not more than \$3,000 and imprisoned in
47 a state correctional facility not less than one year nor more than
48 three years, or both.

49 (e) Any person convicted of a misdemeanor offense under
50 this section:

51 (1) May be required to complete parenting classes, substance
52 abuse counseling, anger management counseling, or other
53 appropriate services, or any combination thereof, as determined
54 by Department of Health and Human Resources, Bureau for
55 Children and Families through its services assessment
56 evaluation, which shall be submitted to the court of conviction
57 upon written request;

58 (2) Shall not be required to register pursuant to article
59 thirteen, chapter fifteen of this code; and

60 (3) Shall not, solely by virtue of the conviction, have their
61 custody, visitation or parental rights automatically restricted.

62 (f) Nothing in this section shall preclude a parent, guardian
63 or custodian from providing reasonable discipline to a child.

§61-8D-4. Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.

1 (a) If a parent, guardian or custodian neglects a child and by
2 such neglect causes the child bodily injury, as bodily injury is
3 defined in section one, article eight-b of this chapter, then the
4 parent, guardian or custodian is guilty of a felony and, upon
5 conviction thereof, shall be fined not less than \$100 nor more
6 than \$1,000 dollars or imprisoned in a state correctional facility
7 for not less than one nor more than three years, or in the
8 discretion of the court, be confined in jail for not more than one
9 year, or both.

10 (b) If a parent, guardian or custodian neglects a child and by
11 such neglect cause the child serious bodily injury, as serious
12 bodily injury is defined in section one, article eight-b of this
13 chapter, then the parent, guardian or custodian is guilty of a
14 felony and, upon conviction thereof, shall be fined not less than
15 \$300 nor more than \$3,000 dollars or imprisoned in a state
16 correctional facility for not less than one nor more than ten
17 years, or both.

18 (c) If a parent, guardian or custodian grossly neglects a child
19 and by that gross neglect creates a substantial risk of death or
20 serious bodily injury, as serious bodily injury is defined in
21 section one, article eight-b of this chapter, of the child then the
22 parent, guardian or custodian is guilty of a felony and, upon
23 conviction thereof, shall be fined not less than \$1,000 nor more
24 than \$3,000 dollars or imprisoned in a state correctional facility
25 for not less than one nor more than five years, or both.

26 (d)(1) If a parent, guardian or custodian who has not been
27 previously convicted under this section, section three of this
28 article or a law of another state or the federal government with

29 the same essential elements neglects a child and by that neglect
30 creates a substantial risk of bodily injury, as defined in section
31 one, article eight-b of this chapter, to the child, then the parent,
32 guardian or custodian, is guilty of a misdemeanor and, upon
33 conviction thereof, for a first offense, shall be fined not less than
34 \$100 nor more than \$1,000 or confined in jail not more than six
35 months, or both fined and confined.

36 (2) For a second offense under this subsection or for a person
37 with one prior conviction under this section, section three of this
38 article or a law of another state or the federal government with
39 the same essential elements, the parent, guardian or custodian is
40 guilty of a misdemeanor and, upon conviction thereof, shall be
41 fined not more than \$1,000 and confined in jail not less than
42 thirty days nor more than one year, or both.

43 (3) For a third or subsequent offense under this subsection or
44 for a person with two or more prior convictions under this
45 section, section three of this article or a law of another state or
46 the federal government with the same essential elements, the
47 parent, guardian or custodian is guilty of a felony and, upon
48 conviction thereof, shall be fined not more than \$2,000 and
49 imprisoned in a state correctional facility not less than one year
50 nor more than three years, or both fined and imprisoned.

51 (e) The provisions of this section shall not apply if the
52 neglect by the parent, guardian or custodian is due primarily to
53 a lack of financial means on the part of such parent, guardian or
54 custodian.

55 (f) Any person convicted of a misdemeanor offense under
56 this section:

57 (1) May be required to complete parenting classes, substance
58 abuse counseling, anger management counseling, or other
59 appropriate services, or any combination thereof, as determined
60 by Department of Health and Human Resources, Bureau for
61 Children and Families through its services assessment

62 evaluation, which shall be submitted to the court of conviction
63 upon written request;

64 (2) Shall not be required to register pursuant to the
65 requirements of article thirteen, chapter fifteen of this code; and

66 (3) Shall not, solely by virtue of the conviction, have their
67 custody, visitation or parental rights automatically restricted.

§61-8D-9. Convictions for offenses against children.

1 In any case where a person is convicted of a felony offense
2 against a child as set forth in this article and the person has
3 custodial, visitation or other parental rights to the child who is
4 the victim of the offense or any child who resides in the same
5 household as the victim, the court shall, at the time of
6 sentencing, find that the person is an abusing parent within the
7 meaning of article six, chapter forty-nine of this code as to the
8 child victim, and may find that the person is an abusing parent
9 as to any child who resides in the same household as the victim,
10 and shall take such further action in accord with the provisions
11 of said article.

CHAPTER 37

**(Com. Sub. for H. B. 4210 - By Delegates Fleischauer, Skinner,
Poore, Longstreth, Barill, Ellem, Sponaugle, Lynch,
Manypenny, Hamilton and Pethtel)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11-23; and to amend said code by adding thereto a new section, designated §62-12-13b,

all relating to providing to eligibility for parole for persons who are convicted of criminal offenses where the person was less than eighteen years of age at the time the offense was committed, generally; prohibiting a sentence of life imprisonment without the possibility of parole upon such persons; requiring that persons who are convicted of offenses and the person was less than eighteen years of age at the time the offenses were committed shall be eligible for parole after he or she has served fifteen years; requiring certain factors to be considered by court when sentencing such persons convicted after transfer to the criminal jurisdiction of the court; and requiring certain factors to be considered by the parole board when considering the eligibility for parole of a person sentenced after transfer to the criminal jurisdiction of a court.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-11-23; and that said code be amended by adding thereto a new section, designated §62-12-13b, all to read as follows:

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-23. Punishment for juvenile convicted as an adult; eligibility for parole; factors to be considered prior to sentencing.

1 (a) Notwithstanding any other provision of law to the
2 contrary, a sentence of life imprisonment without the possibility
3 of parole may not be imposed on a person who:

4 (1) Is convicted of an offense punishable by life
5 imprisonment; and

6 (2) Was less than eighteen years of age at the time the
7 offense was committed.

8 (b) Unless otherwise provided by this code, the provisions of
9 article twelve, chapter sixty-two of this code shall govern the
10 eligibility for parole of a person who is convicted of an offense
11 and sentenced to confinement if he or she was less than eighteen
12 years of age at the time the offense was committed, except that
13 a person who is convicted of one or more offenses for which the
14 sentence or any combination of sentences imposed is for a period
15 that renders the person ineligible for parole until he or she has
16 served more than fifteen years shall be eligible for parole after
17 he or she has served fifteen years if the person was less than
18 eighteen years of age at the time each offense was committed.

19 (c) In addition to other factors required by law to be
20 considered prior to the imposition of a sentence, in determining
21 the appropriate sentence to be imposed on a person who has been
22 transferred to the criminal jurisdiction of the court pursuant to
23 section ten, article five, chapter forty-nine of this code and who
24 has been subsequently tried and convicted of a felony offense as
25 an adult, the court shall consider the following mitigating
26 circumstances:

27 (1) Age at the time of the offense;

28 (2) Impetuosity;

29 (3) Family and community environment;

30 (4) Ability to appreciate the risks and consequences of the
31 conduct;

32 (5) Intellectual capacity;

33 (6) The outcomes of a comprehensive mental health
34 evaluation conducted by a mental health professional licensed

35 to treat adolescents in the State of West Virginia: *Provided*, That
36 no provision of this section may be construed to require that a
37 comprehensive mental health evaluation be conducted;

38 (7) Peer or familial pressure;

39 (8) Level of participation in the offense;

40 (9) Ability to participate meaningfully in his or her defense;

41 (10) Capacity for rehabilitation;

42 (11) School records and special education evaluations;

43 (12) Trauma history;

44 (13) Faith and community involvement;

45 (14) Involvement in the child welfare system; and

46 (15) Any other mitigating factor or circumstances.

47 (d)(1) Prior to the imposition of a sentence on a person who
48 has been transferred to the criminal jurisdiction of the court
49 pursuant to section ten, article five, chapter forty-nine of this
50 code and who has been subsequently tried and convicted of an
51 felony offense as an adult, the court shall consider the outcomes
52 of any comprehensive mental health evaluation conducted by an
53 mental health professional licensed to treat adolescents in the
54 State of West Virginia. The comprehensive mental health
55 evaluation must include the following:

56 (A) Family interviews;

57 (B) Prenatal history;

58 (C) Developmental history;

- 59 (D) Medical history;
- 60 (E) History of treatment for substance use;
- 61 (F) Social history; and
- 62 (G) A psychological evaluation.

63 (2) The provisions of this subsection are only applicable to
64 sentencing proceedings for convictions rendered after the
65 effective date of this section and shall not constitute sufficient
66 grounds for the reconsideration of sentences imposed as the
67 result of convictions rendered after the effective date of this
68 section.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-13b. Special parole considerations for persons convicted as juveniles.

1 (a) When a person who is serving a sentence imposed as the
2 result of an offense or offenses committed when he or she was
3 less than eighteen years of age becomes eligible for parole
4 pursuant to applicable provisions of this code, including, but not
5 limited to, section twenty-three, article eleven, chapter sixty-one
6 thereof, the parole board shall ensure that the procedures
7 governing its consideration of the person's application for parole
8 ensure that he or she is provided a meaningful opportunity to
9 obtain release and shall adopt rules and guidelines to do so that
10 are consistent with existing case law.

11 (b) During a parole hearing involving a person described in
12 subsection (a) of this section, in addition to other factors
13 required by law to be considered by the parole board, the parole
14 board shall take into consideration the diminished culpability of
15 juveniles as compared to that of adults, the hallmark features of

16 youth, and any subsequent growth and increased maturity of the
17 prisoner during incarceration. The board shall also consider the
18 following:

- 19 (1) A review of educational and court documents;
- 20 (2) Participation in available rehabilitative and educational
21 programs while in prison;
- 22 (3) Age at the time of the offense;
- 23 (4) Immaturity at the time of the offense;
- 24 (5) Home and community environment at the time of the
25 offense;
- 26 (6) Efforts made toward rehabilitation;
- 27 (7) Evidence of remorse; and
- 28 (8) Any other factors or circumstances the board considers
29 relevant.



CHAPTER 38

**(Com. Sub. for S. B. 307 - By Senators Cann,
Williams, Cookman and Palumbo)**

[Amended and again passed March 14, 2014; in effect ninety days from passage.]
[Approved by the Governor on April 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-10-5a; to amend and reenact §62-11C-5 and §62-11C-7 of said code; and to amend said code by adding thereto a new article, designated §62-11F-1, §62-11F-2, §62-11F-3, §62-11F-4 and §62-11F-5, all relating to the pretrial management of persons charged with committing a crime;

clarifying bonding fees for persons charged with a crime; establishing minimum fees for bail bonds; setting schedule for payment of bail bond fees; requiring written prenumbered receipts for bail bond fees; establishing content requirements for bail bond receipts; requiring bail bondsmen to maintain receipt records for not less than five years; requiring courts to notify bondsmen within twenty-four hours if bond is to be forfeited; authorizing pretrial release programs; permitting certain fees to be assessed to county commissions; permitting certain fees to be assessed to persons on pretrial release upon subsequent conviction; stating applicability of pretrial release programs; establishing guidelines for pretrial release programs; providing for potential funding sources; requiring community pretrial committees to recommend release of certain persons facing criminal charges who are in regional jails prior to adjudication; setting forth the duties of pretrial release programs; clarifying that a circuit judge or a magistrate may impose a secured bond on participants in pretrial release programs; and removing day fine programs from the list of authorized community corrections programs.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §51-10-5a; that §62-11C-5 and §62-11C-7 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §62-11F-1, §62-11F-2, §62-11F-3, §62-11F-4 and §62-11F-5, all to read as follows:

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 10. BAIL BONDSMEN IN CRIMINAL CASES.

§51-10-5a. Bonding fee and collateral security required by bail bondsmen.

- 1 (a) The bonding fee required by a bail bondsman shall be at
- 2 least ten percent of the amount of the bond. The bonding fee

3 received by the bondsman shall not, in the aggregate, exceed the
4 amount of the bond.

5 (b) The bonding fee may be paid as follows:

6 (1) In full at the time of the issuance of the bond; or

7 (2) At least three percent paid at the issuance of the bond
8 with the remaining percentage to be paid over a period not to
9 exceed twelve months.

10 (c) When collateral or security is received by a bail
11 bondsman, a receipt shall be furnished. Copies of all receipts
12 issued shall be kept by the bail bondsman for a minimum of five
13 years. All receipts issued shall:

14 (1) Be prenumbered and used and filed in consecutive
15 numerical order;

16 (2) Show the name and address of the bail bondsman;

17 (3) Show the name and address of the person providing the
18 collateral;

19 (4) Show the amount and nature of the collateral and the date
20 received;

21 (5) Show the name of the person accepting collateral; and

22 (6) Show the total amount of the bond for which the
23 collateral is being accepted and the name of the defendant.

24 (d) When a bond is to be forfeited, the court is to give
25 notification to the bail bondsman within twenty-four hours of the
26 failure to appear.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.

§62-11C-5. Establishment of programs.

1 (a) Any county or combination of counties, or a county or
2 counties and a Class I or II municipality, may establish and
3 operate community corrections programs, as provided in this
4 section, to be used both prior to trial as a condition of bond in
5 circuit and magistrate court, as well as an alternative sentencing
6 option for those offenders sentenced within the jurisdiction of
7 the county or counties which establish and operate the program:
8 *Provided*, That the chief judge must certify that the community
9 corrections facility is available for use in connection with the
10 imposition of pretrial bond conditions.

11 (b) Any county or combination of counties, or a county or
12 counties and a Class I or II municipality, that seek to establish
13 programs as authorized in this section shall submit plans and
14 specifications for the programs to be established, including
15 proposed budgets, for review and approval by the community
16 corrections subcommittee established in section three of this
17 article.

18 (c) Any county or combination of counties, or a county or
19 counties and a Class I or II municipality, may establish and
20 operate an approved community corrections program to provide
21 alternative sanctioning options for an offender who is convicted
22 of an offense for which he or she may be sentenced to a period
23 of incarceration in a county or regional jail or a state correctional
24 facility and for which probation or home incarceration may be
25 imposed as an alternative to incarceration.

26 (d) Community corrections programs authorized by
27 subsection (a) of this section may provide, but are not limited to
28 providing, any of the following services:

29 (1) Probation supervision programs;

30 (2) Community service restitution programs;

- 31 (3) Home incarceration programs;
- 32 (4) Substance abuse treatment programs;
- 33 (5) Sex offender containment programs;
- 34 (6) Licensed domestic violence offender treatment programs;
- 35 (7) Day reporting centers;
- 36 (8) Educational or counseling programs;
- 37 (9) Drug courts;
- 38 (10) Community beautification and reclamation programs
39 for state highways, municipal, county and state parks and
40 recreation areas and community gardens; and
- 41 (11) Pretrial release programs.
- 42 (e) A county or combination of counties, or a county or
43 counties and a Class I or II municipality, which establish and
44 operate community corrections programs as provided in this
45 section may contract with other counties to provide community
46 corrections services.
- 47 (f) For purposes of this section, the phrase “may be
48 sentenced to a period of incarceration” means that the statute
49 defining the offense provides for a period of incarceration as a
50 possible penalty.
- 51 (g) No provision of this article may be construed to allow a
52 person participating in or under the supervision of a community
53 corrections program to earn good time or any other reduction in
54 sentence.
- 55 (h) Nothing in this section should be construed as to prohibit
56 a court from imposing a surety bond as a condition of a pretrial
57 release.

§62-11C-7. Supervision or participation fee.

1 (a) A circuit judge, magistrate, municipal court judge or
2 community criminal justice board may require the payment of a
3 supervision or participation fee from any person required to be
4 supervised by or participate in a community corrections
5 program. The circuit judge, magistrate, municipal court judge or
6 community criminal justice board shall consider the person's
7 ability to pay in determining the imposition and amount of the
8 fee.

9 (b) A circuit judge, magistrate or community criminal justice
10 board may require payment of a supervision or participation fee
11 of \$7 per person per day of pretrial supervision from the county
12 commission pursuant to a pretrial release program established
13 pursuant to article eleven-f of this chapter.

14 (c) A person supervised pursuant to the provisions of article
15 eleven-f of this chapter who is later convicted of an offense or
16 offenses underlying the person's participation in the pretrial
17 release program may be assessed by the sentencing court, as a
18 cost of prosecution, a fee not to exceed \$30 per month for each
19 month the person was in the pretrial supervision program.

20 (d) All fees ordered by the circuit court, magistrate court,
21 municipal court or community criminal justice board pursuant to
22 this section are to be paid to the community criminal justice
23 board, who shall remit the fees monthly to the treasurer of the
24 county designated as the fiscal agent for the board pursuant to
25 section six of this article.

ARTICLE 11F. PRETRIAL RELEASE PROGRAMS.**§62-11F-1. Applicability.**

1 This article applies to adults charged with one or more
2 misdemeanors or felonies and who are incarcerated in a regional
3 jail prior to adjudication due to their inability to post bond.

§62-11F-2. Establishment of pretrial release programs.

1 (a) *Legislative findings and purpose.* — It is the purpose of
2 pretrial release programs to employ recommendations from the
3 Council of State Government's Justice Center's Analyses and
4 Policy Options to Reduce Spending on Corrections and Reinvest
5 in Strategies to Increase Public Safety, by providing for uniform
6 statewide risk assessment and monitoring of those released prior
7 to trial, facilitating a statewide response to the problem of
8 overcrowded regional jails and costs to county commissions.

9 (b) Any county, circuit or combination thereof that
10 establishes a pretrial program pursuant to this article shall
11 establish a local community pretrial committee that consists of:

12 (1) A prosecutor, or his or her designee;

13 (2) A county commissioner, or his or her designee;

14 (3) A sheriff, or his or her designee;

15 (4) An executive director of a community corrections
16 program, or his or her designee;

17 (5) A chief probation officer, or his or her designee; and

18 (6) A member of the criminal defense bar.

19 (c) Pretrial release programs may monitor, supervise and
20 assist defendants released prior to trial.

21 (d) Nothing in this article should be construed to prohibit a
22 court from requiring a defendant to post a secured bond as a
23 condition of pretrial release.

24 (e) In addition to funding provided pursuant to subsection
25 (c), section three of this article, pretrial release programs may be
26 funded by appropriations made to the Supreme Court of Appeals
27 for such purpose.

§62-11F-3. Pretrial release program guidelines.

1 (a) The Supreme Court of Appeals has complete oversight
2 and authority over all pretrial services.

3 (b) The Supreme Court of Appeals shall establish
4 recommended guidelines for pretrial programs to use when
5 ordering pretrial release for defendants whose pretrial risk
6 assessment indicates that they are an appropriate candidate for
7 pretrial release.

8 (c) The Community Corrections Subcommittee of the
9 Governor's Committee on Crime, Delinquency and Correction,
10 pursuant to section two, article eleven-c of this chapter, shall
11 approve policy and funding for the development, maintenance
12 and evaluation of pretrial release programs. Any county, circuit
13 or combination thereof that establishes a pretrial program
14 intended to provide pretrial release services shall submit a grant
15 proposal to the Community Corrections Subcommittee of the
16 Governor's Committee on Crime, Delinquency and Correction
17 for review and approval.

§62-11F-4. Pretrial release assessment.

1 The Supreme Court of Appeals of West Virginia may adopt
2 a standardized pretrial risk assessment for use by pretrial release
3 programs to aid in making pretrial decisions under article one-c
4 of this chapter.

§62-11F-5. Role of pretrial release programs.

1 A pretrial release program established pursuant to this article
2 shall:

3 (1) Collect and present the necessary information, present
4 risk assessment and make release recommendations to the court;

5 (2) Present information to the court relating to the risk
6 defendants may pose in failing to appear in court or of

7 threatening the safety of the community or any other person and,
8 consistent with court policy, develop release recommendations
9 responding to risk;

10 (3) Develop and provide appropriate and effective
11 supervision for all persons released pending adjudication who
12 are assigned supervision as a condition of release;

13 (4) Monitor compliance of released defendants with the
14 requirements of assigned release conditions;

15 (5) Promptly inform the court of all apparent violations of
16 pretrial release conditions or arrests of persons released pending
17 trial, including those directly supervised by pretrial services as
18 well as those released under other forms of conditional release,
19 and recommend appropriate modifications of release conditions;

20 (6) Coordinate the services of other agencies, individuals or
21 organizations that may serve as custodians for released
22 defendants, and advise the court as to their appropriateness,
23 availability, reliability and capacity relating to pretrial release
24 conditions;

25 (7) Review the status of detained defendants on an ongoing
26 basis for any changes in eligibility for release options and
27 facilitate their release as soon as feasible and appropriate;

28 (8) Develop and operate an accurate information
29 management system to support prompt identification,
30 information collections and presentation, risk assessment, release
31 conditions selection, compliance monitoring and detention
32 review functions essential to an effective pretrial release
33 program; and

34 (9) Remind persons released before trial of their court dates
35 to attempt to facilitate their court appearance.



CHAPTER 39

**(Com. Sub. for H. B. 4290 - By Delegates Moore,
Campbell, Azinger and Reynolds)**

[Passed March 6, 2014; in effect July 1, 2014.]
[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §32A-2-1, §32A-2-3, §32A-2-4, §32A-2-5, §32A-2-8, §32A-2-10, §32A-2-11, §32A-2-13, §32A-2-18, §32A-2-19, §32A-2-22 and §32A-2-27 of the Code of West Virginia, 1931, as amended, relating to licensing and regulation of those engaged in the business of currency exchange, transmission or transport; providing definitions; providing exemptions; clarifying the form of application for license, renewal or required reports; providing that license fees are based upon volume of business; providing minimum surety requirements for licensees; clarifying examination costs; authorizing civil penalties; providing for cease and desist orders; clarifying duties and requirements of delegates designated by a licensee.

Be it enacted by the Legislature of West Virginia:

That §32A-2-1, §32A-2-3, §32A-2-4, §32A-2-5, §32A-2-8, §32A-2-10, §32A-2-11, §32A-2-13, §32A-2-18, §32A-2-19, §32A-2-22 and §32A-2-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY
TRANSMISSION SERVICES,
TRANSPORTATION AND CURRENCY
EXCHANGE.**

§32A-2-1. Definitions.

1 (1) “Commissioner” means the Commissioner of Financial
2 Institutions of this state.

3 (2) “Check” or “payment instrument” means any check,
4 traveler’s check, draft, money order or other instrument for the
5 transmission or payment of money whether or not the instrument
6 is negotiable. The term does not include a credit card voucher,
7 a letter of credit or any instrument that is redeemable by the
8 issuer in goods or services.

9 (3) “Currency” means a medium of exchange authorized or
10 adopted by a domestic or foreign government.

11 (4) “Currency exchange” means the conversion of the
12 currency of one government into the currency of another
13 government, but does not include the issuance and sale of
14 travelers checks denominated in a foreign currency. Transactions
15 involving the electronic transmission of funds by licensed money
16 transmitters which may permit, but do not require, the recipient
17 to obtain the funds in a foreign currency outside of West
18 Virginia are not currency exchange transactions: *Provided*, That
19 they are not reportable as currency exchange transactions under
20 federal laws and regulations.

21 (5) “Currency exchange, transportation, transmission
22 business” means a person who is engaging in currency exchange,
23 currency transportation or currency transmission as a service or
24 for profit.

25 (6) “Currency transmission” or “money transmission” means
26 engaging in the business of selling or issuing checks or the
27 business of receiving currency, the payment of money, or other
28 value that substitutes for money by any means for the purpose of
29 transmitting, either prior to or after receipt, that currency,
30 payment of money or other value that substitutes for money by
31 wire, facsimile or other electronic means, or through the use of
32 a financial institution, financial intermediary, the Federal
33 Reserve system or other funds transfer network. It includes the

34 transmission of funds through the issuance and sale of stored
35 value or similar prepaid products' cards which are intended for
36 general acceptance and used in commercial or consumer
37 transactions.

38 (7) "Currency transportation" means knowingly engaging in
39 the business of physically transporting currency from one
40 location to another in a manner other than by a licensed armored
41 car service exempted under section three of this article.

42 (8) "Licensee" means a person licensed by the commissioner
43 under this article.

44 (9) "Money order" means any instrument for the
45 transmission or payment of money in relation to which the
46 purchaser or remitter appoints or purports to appoint the seller
47 thereof as his or her agent for the receipt, transmission or
48 handling of money, whether the instrument is signed by the
49 seller, the purchaser or remitter or some other person.

50 (10) "Person" means any individual, partnership, association,
51 joint stock association, limited liability company, trust or
52 corporation.

53 (11) "Principal" means a licensee's owner, president, senior
54 officer responsible for the licensee's business, chief financial
55 officer or any other person who performs similar functions or
56 who otherwise controls the conduct of the affairs of a licensee.
57 A person controlling ten percent or more of the voting stock of
58 any corporate applicant is a principal under this provision.

§32A-2-3. Exemptions.

1 (a) The following are exempt from the provisions of this
2 article:

3 (1) Banks, trust companies, foreign bank agencies, credit
4 unions, savings banks and savings and loan associations

5 authorized to do business in the state or which qualify as
6 federally insured depository institutions, whether organized
7 under the laws of this state, any other state or the United States;

8 (2) The United States and any department or agency of the
9 United States;

10 (3) The United States post office;

11 (4) This state and any political subdivision of this state;

12 (5) The provision of electronic transfer of government
13 benefits for any federal, state or county governmental agency as
14 defined in Federal Reserve Board Regulation E, by a contractor
15 for and on behalf of the United States or any department, agency
16 or instrumentality of the United States or any state or any
17 political subdivisions of a state;

18 (6) Persons engaged solely in the business of currency
19 transportation who operate an armored car service in this state
20 pursuant to licensure under article eighteen, chapter thirty of this
21 code: *Provided*, That the net worth of the licensee exceeds \$5
22 million. The term “armored car service” as used in this article
23 means a service provided by a person transporting or offering to
24 transport, under armed security guard, currency or other things
25 of value in a motor vehicle specially equipped to offer a high
26 degree of security. Persons seeking to claim this exemption shall
27 notify the commissioner of their intent to do so and demonstrate
28 that they qualify for its use. Persons seeking an exemption under
29 this subdivision are not exempt from the provisions of this article
30 if they also engage in currency exchange or currency
31 transmission;

32 (7) Persons engaged in the business of currency
33 transportation whose activities are limited exclusively to
34 providing services to federally insured depository institutions, or
35 to any federal, state or local governmental entities;

36 (8) Persons engaged solely in the business of removing
37 currency from vending machines providing goods or services, if
38 the machines are not used for gambling purposes or to convey
39 any gambling ticket, token or other device used in a game of
40 chance; and

41 (9) The State Regulatory Registry, LLC, which administers
42 the Nationwide Mortgage Licensing System and Registry on
43 behalf of states and federal banking regulators.

44 (b) Any person who holds and maintains a valid license
45 under this article may engage in the business of money
46 transmission or currency exchange at one or more locations
47 through or by means of an authorized delegate or delegates as set
48 forth in section twenty-seven of this article, as the licensee may
49 designate and appoint from time to time. No such authorized
50 delegate is required to obtain a separate license under this article,
51 but the use of sub-delegates is prohibited and the authorized
52 delegate may only conduct business on behalf of its licensee.

53 (c) The issuance and sale of stored value cards or similar
54 prepaid products which are intended to purchase items only from
55 the issuer or seller of the stored value card is exempt from the
56 provisions of this article.

57 (d) Any person who is required and properly obtains a
58 license under this article to transport currency is exempt from the
59 requirements of article eighteen, chapter thirty of this code.

§32A-2-4. License application, issuance, and renewal.

1 (a) An applicant for a license shall submit an application to
2 the commissioner on a form prescribed by the commissioner.
3 The commissioner may direct an applicant to file a license
4 application through the Nationwide Mortgage Licensing System
5 and Registry operated by the State Regulatory Registry, LLC.

6 (b) Each application shall be accompanied by a
7 nonrefundable application fee and a license fee. If the
8 application is approved, the application fee is the license fee for
9 the first year of licensure.

10 (c) The commissioner shall issue a license if the
11 commissioner finds that the applicant meets the requirements of
12 this article and the rules adopted under this article. The
13 commissioner shall approve or deny every application for an
14 original license within one hundred twenty days from the date a
15 complete application is submitted, unless the commissioner
16 extends the period for good cause. A license is valid for one year
17 from the date the license is issued by the commissioner.

18 (d) The licensee at each office it owns and operates in West
19 Virginia shall prominently display, or maintain available for
20 inspection, a copy of the license authorizing the conduct of a
21 currency exchange business, if the location offers and provides
22 such services. Where the currency exchange business is
23 conducted through a licensee's authorized delegates in this state,
24 each authorized delegate location offering such services shall
25 maintain available for inspection, proof of their appointment by
26 the licensee to conduct such business.

27 (e) As a condition for renewal of a license, the licensee must
28 submit to the commissioner an application for renewal on a form
29 prescribed by the commissioner and an annual license renewal
30 fee. The commissioner may direct an applicant to file a license
31 renewal application through the Nationwide Mortgage Licensing
32 System and Registry operated by the State Regulatory Registry,
33 LLC.

34 (f) A license issued under this article may not be transferred
35 or assigned.

36 (g) An applicant for a license who is not located in this state
37 shall file an irrevocable consent, duly acknowledged, that suits
38 and actions may be commenced against the applicant in the

39 courts of this state by service of process upon a person located
40 within the state designated to accept service, or by service upon
41 the Secretary of State, as well as by service as set forth in this
42 chapter.

§32A-2-5. Fees.

1 (a) The commissioner shall charge and collect the license
2 application fees, license fees, license renewal fees, and
3 examination costs in amounts reasonable and necessary to defray
4 the cost of administering this article as follows:

5 (1) For applying for a license, an application and licensing
6 fee of \$1,000, plus \$20 for each location at which the applicant
7 and its authorized delegates are conducting business or propose
8 to conduct business excepting the applicant's principal place of
9 business.

10 (2) For renewal of a license, a fee of \$250 plus \$5 for each
11 location at which the licensee and its authorized delegates are
12 conducting business or propose to conduct business excepting
13 the applicant's principal place of business, plus an assessment of
14 up to \$.001 for every dollar of transmission services provided in
15 the prior year.

16 (3) The total of fees required by subdivisions (1) or (2) of
17 this subsection may not exceed \$25,000 for any one application.

18 (4) For a change in address by the licensee of its principal
19 place of business, a fee of \$100.

20 (5) For failure to timely submit an application of renewal or
21 file audited financial statements required for renewal as set forth
22 in this article, a penalty fee of \$10 per day for each day late,
23 unless an extension of time has been granted or the fee waived
24 by the commissioner.

25 (b) The commissioner may, by rules proposed for legislative
26 approval in accordance with the provisions of article three,

27 chapter twenty-nine-a of this code, amend the fees set forth in
28 this section and in subsection (b), section eleven of this article.

29 (c) Fees and moneys received and collected under this article
30 shall be paid into the special revenue account in the State
31 Treasury for the Division of Financial Institutions established in
32 section eight, article two, chapter thirty-one-a of this code.

§32A-2-8. Qualifications for license or renewal of license.

1 (a) The commissioner may issue a license to an applicant
2 only upon first determining that the financial condition, business
3 experience, and character and general fitness of an applicant are
4 such that the issuance of the license is in the public interest.

5 (b) An applicant for a license shall agree in writing to
6 comply with the currency reporting and record-keeping
7 requirements of 31 U.S.C. §5313, as well as those set forth in 31
8 C.F.R. Chapter X and any other relevant federal law.

9 (c) A person is not eligible for a license or shall surrender an
10 existing license if, during the previous ten years:

11 (1) The person or a principal of the person, if a business:

12 (A) Has been convicted of a felony or a crime involving
13 fraud, deceit, or moral turpitude under the laws of this state, any
14 other state, or the United States;

15 (B) Has been convicted of a crime under the laws of another
16 country that involves fraud, deceit, or moral turpitude or would
17 be a felony if committed in the United States; or

18 (C) Has been convicted under a state or federal law relating
19 to currency exchange or transmission or any state or federal
20 monetary instrument reporting requirement; or

21 (2) The person, a principal of the person, or the spouse of the
22 person or a principal of the person has been convicted of an

23 offense under a state or federal law relating to drug trafficking,
24 money laundering, or a reporting requirement of the Bank
25 Secrecy Act, 12 U.S.C. §1951 et seq., as amended.

26 (d) The commissioner will review the application to
27 determine whether the applicant:

28 (1) Has recklessly failed to file or evaded the obligation to
29 file a currency transaction report as required by 31 U.S.C. §5313
30 during the previous three years;

31 (2) Has recklessly accepted currency for exchange, transport,
32 or transmission during the previous three years in which a
33 portion of the currency was derived from an illegal transaction
34 or activity;

35 (3) Will conduct its authorized business within the bounds
36 of state and federal law, including, but not limited to, section
37 1501, article fifteen, chapter thirty-one-d of this code;

38 (4) Warrants the trust of the community;

39 (5) Has and will maintain a minimum tangible net worth of
40 \$50,000 computed according to generally accepted accounting
41 principles as shown by the most recent audited financial
42 statement filed with and satisfactory to the commissioner, and in
43 addition has and will maintain a minimum tangible net worth of
44 \$25,000, computed according to generally accepted accounting
45 principles for each office or delegate location other than its
46 principal office at which its licensed business is transacted,
47 except that an applicant for a license or renewal of a license may
48 not be required by this article to maintain a tangible net worth of
49 more than \$1 million, computed according to generally accepted
50 accounting principles; and

51 (6) Does not owe delinquent taxes, fines, or fees to any local
52 or state taxing authority or governmental agency, department, or
53 other political subdivision of this state.

54 (e) A person is not eligible for a license, and a person who
55 holds a license shall surrender the license to the commissioner,
56 if the person or a principal of the person has at any time been
57 convicted of:

58 (1) A felony involving the laundering of money that is the
59 product of or proceeds from criminal activity under chapter
60 sixty-one of this code, or a similar provision of the laws of
61 another state or the United States; or

62 (2) A felony violation of 31 U.S.C. §5313 or 5324, or a rule
63 adopted under those sections.

64 (f) Before approving an application for a license of an
65 applicant who has less than one year's experience in the
66 proposed business governed by this article as a regulated entity
67 in another state, or whose license has been suspended or revoked
68 by another state, the commissioner may, in his or her discretion,
69 conduct an on-site investigation of an applicant at the sole
70 expense of the applicant and may require the applicant to pay a
71 nonrefundable payment of the anticipated expenses for
72 conducting the investigation. Failure to make the payment or
73 cooperate with the investigation is grounds for denying the
74 application.

§32A-2-10. Bond.

1 (a) A person who is licensed under this article shall post a
2 bond with a qualified surety company doing business in this state
3 that is acceptable to the commissioner. The bond shall be in the
4 amount of \$100,000 for a licensee which issues or sells checks
5 or money orders, or which engages in currency exchange; or
6 \$300,000 for a licensee which engages in receiving money for
7 transmission by wire, facsimile or electronic transfer, or which
8 engages in currency transportation. A licensee which engages in
9 multiple types of these activities shall post the higher amount. A
10 merchant obtaining a license solely to engage in the check
11 cashing business not incidental to the main business of the

12 merchant as required by article three of this chapter shall post a
13 bond of \$100,000. The bond required by this subsection shall be
14 increased at the time of license renewal by one percent of the
15 annual volume of business the licensee conducts in this state
16 exceeding \$10 million rounded to the nearest thousand, as
17 reported by the licensee: *Provided*, That in no event shall the
18 bond exceed \$1 million.

19 (b) No cash deposit or pledge of cash equivalent in
20 instruments or securities may be accepted in lieu of the bond
21 required by subsection (a) of this section, unless such alternative
22 deposit or pledge was in effect prior to April 1, 2014.

23 (c) A bond posted by a licensee shall be conditioned upon
24 compliance with the provisions of this article and any rules
25 thereunder for as long as the person holds the license. The
26 deposit or bond, as the case may be, shall be made to the State of
27 West Virginia for the benefit and protection of any claimant
28 against the applicant or licensee with respect to the receipt,
29 handling, transmission, and payment of money by the licensee
30 or authorized delegate in connection with the licensed operations
31 in this state. A claimant damaged by a breach of the conditions
32 of the bond or deposit shall, upon the assent of the
33 commissioner, have a right of action against the bond or deposit
34 for damages suffered thereby and may bring suit directly
35 thereon, or the commissioner may bring suit on behalf of the
36 claimant. The aggregate liability of the surety in no event shall
37 exceed the principal sum of the bond.

38 (d) A penalty fee under subdivision (5), subsection (a),
39 section five of this article, expenses under section eleven of this
40 article, or a civil penalty under section nineteen of this article
41 may be paid out of and collected from the proceeds of a bond
42 under this section.

43 (e) After receiving a license, the licensee shall maintain the
44 required bond until five years after it ceases to do business in

45 this state unless all outstanding checks/payment instruments are
46 cleared or covered by the provisions of article eight, chapter
47 thirty-six of this code pertaining to the distribution of unclaimed
48 property which have become operative and are adhered to by the
49 licensee. Notwithstanding this provision, however, the
50 commissioner may permit the bond to be reduced following
51 cessation of business in the state to the extent the amount of the
52 licensee's checks/payment instruments outstanding in this state
53 are reduced.

54 (f) If the commissioner at any time reasonably determines
55 that the required bond or deposit is insecure, deficient in amount,
56 or exhausted, in whole or in part, he or she may in writing
57 require the filing of a new or supplemental bond in order to
58 secure compliance with this article and may demand compliance
59 with the requirement within thirty days following service on the
60 licensee. The total amount of the bonds required of the licensee
61 may not, however, exceed the \$1 million set forth in subsection
62 (a) of this section.

§32A-2-11. Examination and fraudulently structured transactions.

1 (a) Each licensee is subject to a periodic examination of the
2 licensee's business records by the commissioner at the expense
3 of the licensee. For the purpose of carrying out this article, the
4 commissioner may examine all books, records, papers, or other
5 objects that the commissioner determines are necessary for
6 conducting a complete examination and may also examine under
7 oath any person associated with the license holder, including an
8 officer, director, or employee of the licensee or authorized
9 delegate. Unless it will interfere with the commissioner's duties
10 under this article, reasonable notice shall be given to the licensee
11 and any authorized delegate before any on-site examination visit.
12 If a person required by the commissioner to submit to an
13 examination refuses to permit the examination or to answer any
14 question authorized by this article, the commissioner may
15 suspend the person's license until the examination is completed.

16 (b) The licensee shall bear the reasonable and necessary per
17 diem and travel expense cost of any on-site examination made
18 pursuant to this section.

19 (c) A person, for the purpose of evading a reporting or
20 record-keeping requirement of 31 U.S.C. §5313, or 31 C.F.R.
21 Chapter X, or by this article, or a rule adopted under this article,
22 may not with respect to a transaction with a licensee:

23 (1) Cause or attempt to cause the licensee to:

24 (A) Not maintain a record or file a report required by a law
25 listed by this subsection; or

26 (B) Maintain a record or file a report required by a law listed
27 by this subsection that contains a material omission or
28 misstatement of fact; or

29 (2) Fraudulently structure the transaction.

30 (d) For the purposes of this article, a person fraudulently
31 structures a transaction if the person conducts or attempts to
32 conduct a transaction in any amount of currency with a licensee
33 in a manner having the purpose of evading a record-keeping or
34 reporting requirement of this article, or of a law or rule listed by
35 subsection (c) of this section, including the division of a single
36 amount of currency into smaller amounts or the conduct of a
37 transaction or series of transactions in amounts equal to or less
38 than the reporting or record-keeping threshold of a law or rule
39 listed by subsection (c) of this section.

40 (e) A transaction is not required to exceed a record-keeping
41 or reporting threshold of a single licensee on a single day to be
42 a fraudulently structured transaction.

§32A-2-13. Notification requirements.

1 (a) A licensee shall notify the commissioner of any change
2 in its principal place of business, or its headquarters office if

3 different from its principal place of business, within fifteen days
4 after the date of the change.

5 (b) A licensee shall notify the commissioner of any of the
6 following significant developments within fifteen days after
7 gaining actual notice of its occurrence:

8 (1) The filing of bankruptcy or for reorganization under the
9 bankruptcy laws;

10 (2) The institution of any enforcement action including, but
11 not limited to, a license revocation or suspension against the
12 licensee in by any other state or federal regulator;

13 (3) A felony indictment related to money transmission,
14 currency exchange, fraud, failure to fulfill a fiduciary duty, or
15 other activities of the type regulated under this article of the
16 licensee or its authorized delegates in this state, or of the
17 licensee's or authorized delegate's officers, directors, or
18 principals;

19 (4) A felony conviction or plea related to the money
20 transmission, currency exchange, fraud, failure to fulfill a
21 fiduciary duty, or other activities of the type regulated under this
22 article of the licensee or its authorized delegates in this state, or
23 of the licensee's or authorized delegate's officers, directors, or
24 principals;

25 (5) Any change in its business activities; and

26 (6) Any change in its principals.

27 (c) A licensee shall notify the commissioner of any merger
28 or acquisition which may result in a change of control or a
29 change in principals of a licensee within fifteen days of
30 announcement or publication of the proposal, or its occurrence,
31 whichever is earlier. Upon notice of these circumstances by a
32 corporate licensee, the commissioner may require all information
33 necessary to determine whether it results in a transfer or

34 assignment of the license and thus if a new application is
35 required in order for the company to continue doing business
36 under this article. A licensee that is an entity other than a
37 corporation shall in these circumstances submit a new
38 application for licensure at the time of notice.

39 (d) The commissioner may direct that the reports required by
40 this section and any other reports, data or information deemed
41 necessary by the commissioner be filed directly with the
42 Division of Financial Institutions on a date to be determined by
43 the commissioner or through the Nationwide Mortgage
44 Licensing System and Registry operated by the State Regulatory
45 Registry, LLC.

§32A-2-18. Criminal penalty.

1 (a) A person commits a criminal offense if the person
2 knowingly:

3 (1) Violates a requirement of this article;

4 (2) Makes a false, fictitious, or fraudulent statement,
5 representation, or entry in a record or report required under 31
6 U.S.C. §5313 or 31 C.F.R. Chapter X, or by this article, or a rule
7 adopted under this article; or

8 (3) Fraudulently structures or attempts to fraudulently
9 structure a transaction in violation of section eleven of this
10 article.

11 (b) An offense under this section is a felony.

12 (c) Any officer, director, employee or agent of any licensee
13 or any other person guilty of any felony offense as provided in
14 this section shall, upon conviction thereof, be imprisoned in the
15 penitentiary not less than one nor more than five years and also,
16 in the discretion of the court, may be fined up to \$10,000 for
17 each violation. Each transaction in violation of this article and
18 each day that a violation continues is a separate offense.

§32A-2-19. Civil penalty.

1 (a) The commissioner may bring civil actions to enforce this
2 article in the circuit court of Kanawha County or the county in
3 which the violation occurred and seek civil penalties. If, after
4 notice and a hearing, the court finds that a person has violated
5 this article, a rule adopted under this article, or an order of the
6 commissioner issued under this article, the court may order the
7 person to pay to the state a civil penalty. The amount of a civil
8 penalty under this section may not exceed \$5,000 for each
9 violation or, in the case of a continuing violation, up to \$5,000
10 for each day that the violation continues. A civil penalty assessed
11 may be collected from the bond required under section ten of this
12 article.

13 (b) In addition to the authority granted in subsection (a) of
14 this section, the commissioner may by administrative assessment
15 impose a civil penalty of up to \$5,000 upon any person he or she
16 believes has violated this article, a rule promulgated under this
17 article, any other law or rule the commissioner is authorized to
18 enforce with respect to persons licensed under this article, or a
19 prior order of the commissioner. For purposes of this subsection,
20 each separate violation is subject to the penalty herein prescribed
21 and, in the case of a continuing violation, a penalty of up to
22 \$5,000 may be assessed for each day the violation continues.
23 Any penalty imposed under this subsection may be contested by
24 the licensee pursuant to article five, chapter twenty-nine-a of this
25 code. A civil penalty assessed under this subsection may be
26 collected from the bond required under section ten of this article.

§32A-2-22. Cease and desist orders.

1 (a) If the commissioner, upon information, has cause to
2 believe that a licensee or other person is engaged in practices
3 contrary to this article or the rules adopted under this article, the
4 commissioner may issue an order directing the licensee or person
5 to cease and desist the violation. A cease and desist order is

6 appropriate in any case where the commissioner, upon
7 information, reasonably believes that a principal or the licensee
8 acting through any authorized person has:

9 (1) Violated or refused to comply with a provision of this
10 article, a rule adopted under this article, or any other law or
11 regulation applicable to a currency exchange, transportation or
12 transmission business, or to the business of check cashing;

13 (2) Committed a fraudulent practice in the conduct of the
14 licensee's business;

15 (3) Refused to submit to an examination;

16 (4) Conducted business in an unsafe or unauthorized
17 manner;

18 (5) Violated any federal law or regulation pertaining to the
19 business of currency exchange, money transportation or
20 transmission, or the business of check cashing; or

21 (6) Violated any condition of its license or of any agreement
22 entered into with the commissioner.

23 (b) The commissioner shall serve notice and a copy of the
24 cease and desist order on the affected party either personally or
25 by certified mail, return receipt requested. Service by mail shall
26 be deemed completed if the notice is deposited in the post office,
27 postage prepaid, addressed to the last known address for a
28 licensee or the person designated by the licensee to accept
29 service in this state.

30 (c) The order shall include a statement of the alleged conduct
31 of the licensee or principal which gave rise to the order, and set
32 forth the facts and law on which it is based.

33 (d) A person is entitled to a hearing on the cease and desist
34 order before the commissioner, or a hearing examiner appointed
35 by him or her, if the person files with the commissioner a written

36 demand for hearing within ten days after receiving written notice
37 of the order, or within thirty days after the date of service,
38 whichever occurs first. A person's right to a hearing as provided
39 by this subsection shall be disclosed in the notice of service.

40 (e) Hearings and judicial review of any order shall be under
41 procedures provided in sections one and two, article eight,
42 chapter thirty-one-a of this code and procedural rules thereunder.

43 (f) The issuance of a cease and desist order under this section
44 shall not be a prerequisite to the taking of any action by the
45 commissioner or others under any other section of this article.

§32A-2-27. Authorized delegates.

1 (a) A licensee may conduct the business of money
2 transmission and currency exchange regulated by this article at
3 one or more locations through authorized delegates designated
4 by the licensee to conduct business on its behalf.

5 (b) A licensee may not knowingly authorize a person to act
6 as its delegate who has, within the previous ten years, a
7 disqualifying criminal conviction of the type set forth in
8 subdivision (2), subsection (c), section eight of this article.

9 (c) A licensee shall enter into a contract with its authorized
10 delegate detailing the nature and scope of the relationship
11 between the licensee and the authorized delegate. The contract
12 shall require that the authorized delegate operate in full
13 compliance with the laws of this state and of the United States.
14 The licensee shall, upon request, provide the commissioner with
15 the sample written contract.

16 (d) The financial responsibility of a licensee for the actions
17 of its authorized delegate shall not exceed the amount of funds
18 received by the authorized delegate on behalf of its licensee for
19 the business regulated under this article.

20 (e) An authorized delegate has an affirmative duty not to: (i)
21 Commit fraud or misrepresentation; or (ii) submit fraudulent
22 statements to the licensee. A licensee shall promptly report to the
23 commissioner and to any other appropriate state or federal
24 official when it has probable cause to believe that an authorized
25 delegate has violated the affirmative duty set forth in this
26 subsection.

27 (f) The licensee shall require the authorized delegate to hold
28 in trust for the licensee from the moment of receipt of the
29 proceeds of any business transacted under this article in an
30 amount equal to the amount of proceeds due the licensee less the
31 amount due the authorized delegate. The funds shall remain the
32 property of the licensee whether or not commingled by the
33 authorized delegate with its own funds. In the event that the
34 license is revoked by the commissioner, all proceeds held in trust
35 by the authorized delegate of that licensee are considered to be
36 assigned to the commissioner. If an authorized delegate fails to
37 remit funds to the licensee in accordance with the time specified
38 in the contract with the licensee, the licensee may bring a civil
39 action against the authorized delegate for three times the actual
40 damages. The commissioner may by rule set a maximum
41 remittance time for authorized delegates.

42 (g) An authorized delegate shall report to the licensee the
43 theft or loss of payment instruments within twenty-four hours
44 from the time the authorized delegate knew or should have
45 known of the theft or loss.

46 (h) Upon any suspension or revocation of a license, the
47 failure of a licensee to renew a license, or the denial of the
48 renewal of a license, the licensee shall notify its authorized
49 delegates of the event and demand that they immediately cease
50 operations as authorized delegates.

51 (i) A licensee shall report the removal of an authorized
52 delegate location, or the termination of operations of an

53 authorized delegate location, to the commissioner on a quarterly
54 basis, and shall in the report list any new authorized delegate
55 locations in this state.

56 (j) No authorized delegate shall act outside its scope of
57 authority as defined under this article and by its contract with the
58 licensee to act on behalf of the licensee with regard to any
59 transaction regulated by this article.

CHAPTER 40

**(Com. Sub. for H. B. 4393 - By Delegates Swartzmiller,
Wells, Manypenny, Ellem, Paxton,
Fragale, Craig and Storch)**

[Passed March 6, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 21, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-34-1, §19-34-2, §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8 and §19-34-9, all relating to the regulation of dangerous wild animals; creating the Dangerous Wild Animals Act; setting forth findings and purpose; defining terms; creating the Dangerous Wild Animal Board; setting forth the duties of the board; requiring the board to create a list of dangerous wild animals by rule; permitting the board to issue a permit for a dangerous wild animal legally possessed prior to the effective date of the rules; prohibiting the possession of a dangerous wild animal thereafter; setting forth permit requirements; providing for confiscation and disposition of animals; permitting the suspension and revocation of permits; providing exemptions; providing rule-making authority; and establishing criminal and civil penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §19-34-1, §19-34-2, §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8 and §19-34-9, all to read as follows:

ARTICLE 34. DANGEROUS WILD ANIMALS ACT.

§19-34-1. Findings and purpose.

1 The possession of dangerous wild animals presents serious
2 public health and safety concerns and shall be regulated for the
3 following reasons:

4 (1) To prevent the introduction or spread of disease or
5 parasites harmful to humans, domestic livestock and poultry,
6 wildlife and captive wild animals;

7 (2) To ensure the physical safety of humans;

8 (3) To prevent the escape or release of an animal injurious
9 to or competitive with agricultural, horticultural, forestry,
10 wildlife and other natural resources; and

11 (4) To prevent the mistreatment of permitted dangerous wild
12 animals.

§19-34-2. Definitions.

1 As used in this article unless otherwise specified:

2 (1) "Board" means the Dangerous Wild Animal Board;

3 (2) "Dangerous wild animal" means a mammal, bird, reptile,
4 amphibian or aquatic animal, including a hybrid, that is
5 dangerous to humans, other animals or the environment due to
6 its inherent nature and capability to do significant harm.

7 “Wildlife”, as defined by section two, article one, chapter twenty
8 of this code, “livestock”, as defined in section two, article ten-b,
9 chapter nineteen of this code, and “domestic animals”, as defined
10 in this section, are excluded.

11 (3) “Domestic animal” means an animal which, through
12 extremely long association with humans, has been bred to a
13 degree which has resulted in genetic changes affecting the
14 temperament, color, conformation or other attributes of the
15 species to an extent that makes it unique and distinguishable
16 from a wild individual of its species, and includes an animal that
17 has been bred as a companion animal.

18 (4) “Person” means an individual, partnership, corporation,
19 organization, trade or professional association, firm, limited
20 liability company, joint venture, association, trust, estate or other
21 legal entity and an officer, member, shareholder, director,
22 employee, agent or representative thereof.

§19-34-3. Rule-making authority.

1 The board shall propose rules for legislative approval to
2 effectuate the provisions of this article in accordance with the
3 provisions of article three, chapter twenty-nine-a of this
4 code. The board may promulgate emergency rules pursuant to
5 section fifteen, article three, chapter twenty-nine-a of this code.

§19-34-4. Prohibition on the possession of a dangerous wild animal; exceptions.

1 (a) Except as otherwise provided in this article, a person may
2 not possess a dangerous wild animal.

3 (b) Pursuant to the provisions of this article, the board may
4 issue a permit for the possession of a dangerous wild animal if
5 the applicant was in legal possession of the animal prior to the
6 effective date of the rules promulgated under this article.

§19-34-5. Dangerous Wild Animal Board; composition; duties.

1 (a) The Dangerous Wild Animal Board is hereby established
2 with the following members: The Commissioner of the
3 Department of Agriculture, the Secretary of the Department of
4 Health and Human Resources and the Director of the Division of
5 Natural Resources, or their designees. The board shall develop
6 a comprehensive list of dangerous wild animals pursuant to the
7 rule-making authority of this article.

8 (b) The Commissioner of Agriculture shall serve as the
9 chair, the Secretary of the Department of Health and Human
10 Resources as the vice chair and the Director of the Division of
11 Natural Resources shall serve as the secretary of the board. The
12 Department of Agriculture shall provide necessary staff and
13 support services to the board as needed.

14 (c) The board shall:

15 (1) Establish minimum caging or enclosure requirements for
16 various dangerous wild animals;

17 (2) Create a comprehensive list of dangerous wild animals,
18 excluding wildlife, livestock and domestic animals as defined
19 herein. The list may include, but not be limited to:

20 (A) Bears;

21 (B) Big Cats;

22 (C) Canids;

23 (D) Primates;

24 (E) Constrictor snakes greater than six feet, and venomous
25 snakes; and

26 (F) Alligators and caimans;

27 (3) Enforce the permit requirements and set the fees for
28 permits;

29 (4) Issue, renew, revoke and maintain records for dangerous
30 wild animal permits;

31 (5) Annually review the list of prohibited dangerous wild
32 animals to determine if animals should be added or subtracted
33 from the list; and

34 (6) Address any other issues required by this article.

**§19-34-6. Permit applications, requirements, issuance and
revocation.**

1 (a) *Application.* — A person applying for a permit to possess
2 a dangerous wild animal shall submit an application that includes
3 the following:

4 (1) A fee established by the board for each dangerous wild
5 animal;

6 (2) The name, address and telephone number of the
7 applicant, and the address where the dangerous wild animal is
8 located;

9 (3) A description of each dangerous wild animal, including
10 the scientific name, common name, permanent and unique
11 identifier, and any information that would aid in the
12 identification of the animal; and

13 (4) A description of the exact location on the property and a
14 description of the enclosure or cage where each dangerous wild
15 animal is kept.

16 (b) *Permit requirements and restrictions.* — The application
17 shall state, and the person shall acknowledge his or her
18 understanding, that:

19 (1) He or she may not breed, receive or replace a dangerous
20 wild animal;

21 (2) He or she shall notify the sheriff or humane officer in his
22 or her county immediately if the dangerous wild animal escapes;

23 (3) He or she may not allow the dangerous wild animal to
24 come into physical contact with a person other than the permittee,
25 the animal's designated handler, an employee of a
26 law-enforcement agency enforcing this article or a veterinarian
27 administering medical treatment or care;

28 (4) He or she has not been convicted for an offense involving
29 the abuse or neglect of any animal;

30 (5) He or she has not had a permit or license concerning the
31 care, possession, exhibition, breeding or sale of a dangerous wild
32 animal revoked or suspended by a governmental agency;

33 (6) He or she shall permanently mark each dangerous wild
34 animal with a unique identifier;

35 (7) He or she shall maintain records for each dangerous wild
36 animal, including veterinary records, acquisition papers, the
37 purchase date and other records that prove ownership of the
38 dangerous wild animal;

39 (8) He or she presents proof of liability insurance in an
40 amount of not less than \$300,000 with a deductible of not more
41 than \$250 for each occurrence of property damage, bodily injury
42 or death caused by a dangerous wild animal possessed by the
43 person;

44 (9) He or she shall notify the board not less than three days
45 before a dangerous wild animal is transferred to another person
46 out of state;

47 (10) He or she may not transfer dangerous wild animals in
48 the state without the written consent of the board;

49 (11) He or she shall notify the board of any plans to move or
50 change his or her address, and may not move the animal without
51 the written consent of the board. However, in the event of a
52 medical emergency, a dangerous wild animal may be transported
53 to a licensed veterinarian's facility for treatment and care if the
54 animal is at all times confined sufficiently to prevent escape; and

55 (12) He or she shall comply with all rules promulgated by
56 the board pursuant to the provisions of this article.

57 (c) The board may issue a permit to possess a dangerous
58 wild animal if it determines that the applicant has met the
59 requirements of this article.

60 (d) A permit to possess a dangerous wild animal is valid for
61 one calendar year and must be renewed annually.

**§19-34-7. Confiscation and disposition of animals; suspension and
revocation of permits.**

1 (a) A law-enforcement officer, county humane officer or the
2 state veterinarian may immediately confiscate or euthanize any
3 dangerous wild animal if the animal poses an immediate risk to
4 public health or safety regardless of whether the owner of the
5 animal has a permit issued under this article.

6 (b) The board may summarily suspend a permit issued under
7 this article if one of the following conditions exists:

8 (1) An animal whose owner has a permit issued under this
9 article is in a position to harm another animal;

10 (2) A permitted animal poses a risk to public health or
11 safety; or

12 (3) The permittee has violated a provision of this article.

13 (c) In the event of the suspension of a permit or confiscation
14 of an animal pursuant to this section, the dangerous wild animal

15 may be transferred to another permittee in compliance with the
16 provisions of this article, if the transfer would abate the
17 imminent harm to the animal or the public as determined by the
18 responding law-enforcement officer, county humane officer or
19 state veterinarian. If the transfer of the dangerous wild animal
20 cannot be accomplished without additional risk to public safety,
21 or if no suitable facility is available for transfer, the responding
22 law-enforcement officer, county humane officer or veterinarian
23 may humanely euthanize the animal.

24 (d) Upon conviction of an offense under this article or any
25 other animal cruelty statute, the board shall revoke that person's
26 permit.

27 (e) The board may, for cause, revoke a permit.

28 (f) A person aggrieved by action of the board may appeal to
29 circuit court.

§19-34-8. Exemptions.

1 (a) The permitting provisions of this article do not apply to:

2 (1) Institutions accredited by the Association of Zoos and
3 Aquariums (AZA) or an AZA-certified facility;

4 (2) An animal control or law-enforcement agency or officer
5 acting under the authority of this article;

6 (3) Licensed veterinary hospitals or clinics treating
7 dangerous wild animals;

8 (4) A licensed or accredited research medical institution;

9 (5) A research facility as defined in the Animal Welfare Act,
10 7 U.S.C. §2132(e), as amended;

11 (6) A circus that is an incorporated, Class C licensee under
12 the Animal Welfare Act, 7 U.S.C. §2132(e), as amended;

13 (7) A person displaying dangerous wild animals at a fair or
14 festival that is a licensed exhibitor under the Animal Welfare
15 Act, 7 U.S.C. §2132(e), as amended; and

16 (8) A person temporarily transporting a dangerous wild
17 animal through the state, if the transit time is not more than
18 forty-eight hours and the animal is at all times confined
19 sufficiently to prevent escape.

20 (b) *Qualified exemption.* — The permitting provisions of this
21 article do not apply to exhibitors or dealers licensed as of
22 January 1, 2014, under the Animal Welfare Act, 7 U. S. C.
23 §2132(e), as amended, and at the time the rules become effective
24 and who continue to have a valid exhibitor or dealer license. The
25 board may revoke this exemption as to exhibitors or dealers that
26 have repeated, uncorrected citations in violation of the Animal
27 Welfare Act, a conviction for violation of an animal cruelty
28 statute or a violation of sections seven or nine of this article.

§19-34-9. Criminal and civil penalties.

1 (a) A person who violates a provision of this article is guilty
2 of a misdemeanor and, upon conviction thereof, shall be fined
3 not less than \$200 nor more than \$2,000 for each animal with
4 respect to which there is a violation.

5 (b) A person who knowingly and intentionally or recklessly
6 releases a dangerous wild animal or unlawfully possesses a
7 dangerous wild animal that does not cause injury to an individual
8 is guilty of a misdemeanor and, upon conviction, may be
9 confined in jail for not more than one year or fined not less than
10 \$500 nor more than \$2,500, or both confined and fined.

11 (c) A person who knowingly and intentionally or recklessly
12 releases a dangerous wild animal or unlawfully possesses a
13 dangerous wild animal that injures an individual is guilty of a
14 felony and, upon conviction thereof, may be imprisoned in a

15 state correctional institution for not less than one year nor more
16 than three years, or fined not less than \$1,000 nor more than
17 \$5,000, or both confined and fined.

18 (d) *Civil penalty.* — A person convicted of an offense under
19 this article is liable for all costs, including personnel costs,
20 expended by the county or state agencies involved with the
21 capture, confinement, transfer or euthanasia of a dangerous wild
22 animal.

23 (e) The civil liability imposed by this section is in addition
24 to any other legal remedies for damages to person or property
25 caused by a dangerous wild animal.

CHAPTER 41

**(Com. Sub. for H. B. 2757 - By Delegates Sponaugle,
Lynch, A. Evans and Andes)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-20D-1, §19-20D-2 and §19-20D-3, all relating to the creation of a private cause of action in magistrate court for the purpose of seeking humane destruction of a dog which has attacked a person; providing the elements of the cause of action and contents of the verified petition; allowing attorney fees; providing for limitations of the cause of action; requiring the court to issue a written order; providing for contents of order; requiring proof of euthanasia; and requiring dismissal of petition if euthanasia not ordered.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §19-20D-1, §19-20D-2 and §19-20D-3, all to read as follows:

**ARTICLE 20D. PRIVATE CAUSE OF ACTION FOR THE
HUMANE DESTRUCTION OF A DOG.**

§19-20D-1. Purpose.

1 The purpose of this article is to protect the public by
2 providing a private cause of action seeking euthanasia of a dog
3 in magistrate court to a person who has been attacked by a dog
4 resulting in personal injuries requiring medical treatment which
5 cost \$2,000 or more, or who has been attacked by the dog and
6 the dog had attacked a person causing personal injury which
7 required medical treatment within the previous twelve months.

**§19-20D-2. Procedure; petition to magistrate court; elements of
action; burden of proof; attorney fees; limitation of
action.**

1 (a) A person seeking relief under this article may apply to
2 the magistrate court in the county where the dog owner resides,
3 or the county where the injury occurred, by verified petition
4 setting forth and affirming the following:

5 (1) That the owner of the dog resides in the county where the
6 petition is filed or the attack giving rise to the action occurred in
7 the county where the petition is filed;

8 (2) That the petitioner was:

9 (A) Attacked by the dog and the attack resulted in personal
10 injuries requiring medical treatment in the amount of \$2,000 or
11 more; or

12 (B) Attacked by the dog and the dog had engaged in a
13 separate attack on a person causing personal injury requiring
14 medical treatment within the previous twelve months; and

15 (3) That the petitioner did nothing to provoke the dog.

16 (b) The petition and summons shall be served on the
17 respondent in the manner set forth in Rule 4 of the West Virginia
18 Rules of Civil Procedure.

19 (c) The petitioner must prove the allegations in the petition
20 by clear and convincing evidence.

21 (d) The prevailing party is entitled to an award of reasonable
22 attorney fees and costs.

23 (e) The limitations of the cause of action in this article are as
24 follows:

25 (1) Relief, other than attorney fees and costs in subsection
26 (d) of this section, is limited to an order directing that the owner
27 of the dog have the dog euthanized; and

28 (2) The cause of action provided by this article does not
29 establish statutory liability nor does it supplant a common law
30 negligence cause of action.

§19-20D-3. Order of the magistrate court.

1 (a) If the trier of fact finds by clear and convincing evidence
2 that the dog which is the subject of the action under this article
3 has attacked the petitioner and caused personal injuries requiring
4 medical treatment in the amount of \$2,000 or more or that the
5 dog attacked the petitioner and within the twelve month period
6 prior to the attack had engaged in a separate attack causing
7 personal injury requiring medical treatment, then the court shall
8 order the owner of the dog to have the dog euthanized.

9 (b) The magistrate court shall issue and file a written order
10 that sets forth the following:

11 (1) Findings of fact and conclusions of law; and

12 (2) If the court orders euthanasia, a specific date upon which
13 the owner of the dog must have the euthanasia performed and a
14 direction that documentation be mailed to the petitioner and filed
15 with the court by a specific date showing that the procedure was
16 performed.

17 (c) If the court does not order euthanasia, the court shall
18 order that the petition be dismissed with prejudice.

19 (d) The court may award reasonable attorney fees and costs
20 to the prevailing party.

CHAPTER 42

**(Com. Sub. for S. B. 58 - By Senators Cookman,
Miller, Plymale and Fitzsimmons)**

[Passed March 5, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 14, 2014.]

AN ACT to amend and reenact §48-3-103 and §48-3-105 of the Code of West Virginia, 1931, as amended, all relating to domestic relations law generally; clarifying that conviction of an offense punishable by incarceration for one year or more prior to the marriage and without the knowledge of the other party constitutes a basis for voiding a marriage; clarifying that a party to a marriage who was unaware at the time of the marriage that his or her spouse had previously been convicted of an offense punishable by incarceration for one year or more may not institute an annulment

action if he or she cohabited with that spouse after becoming aware of the conviction; clarifying grounds for voiding marriages; and modifying and removing certain language related to voiding of marriages.

Be it enacted by the Legislature of West Virginia:

That §48-3-103 and §48-3-105 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 3. PROPERTY, RIGHTS AND LIABILITIES OF
MARRIED WOMEN; HUSBAND AND WIFE.**

§48-3-103. Voidable marriages.

1 The following marriages are voidable and are void from the
2 time they are so declared by a judgment order of nullity:

3 (1) Marriages that are prohibited by law on account of either
4 of the parties having a wife or husband of a prior marriage, when
5 the prior marriage has not been terminated by divorce,
6 annulment or death;

7 (2) Marriages that are prohibited by law on account of
8 consanguinity or affinity between the parties;

9 (3) Marriages solemnized when either of the parties:

10 (A) Was mentally incompetent;

11 (B) Was afflicted with a sexually transmitted disease;

12 (C) Was incapable, because of natural or incurable
13 impotency of the body, of entering into the marriage state;

14 (D) Was under the age of consent; or

15 (E) Had been, prior to the marriage and without the
16 knowledge of the other party, convicted of a crime punishable by

17 imprisonment in excess of one year under the applicable law of
18 this state, another state or the United States;

19 (4) Marriages solemnized when, at the time of the marriage,
20 the wife, without the knowledge of the husband, was with child
21 by some person other than the husband.

§48-3-105. What persons may not institute annulment action.

1 An action for annulling a marriage may not be instituted:

2 (a) Where the cause is the natural or incurable impotency of
3 body of either of the parties to enter the marriage state, by the
4 party who had knowledge of such incapacity at the time of
5 marriage;

6 (b) Where the cause is fraud, force or coercion, by the party
7 who was guilty of such fraud, force or coercion, nor by the
8 injured party if, after knowledge of the facts, he or she has by
9 acts or conduct confirmed such marriage;

10 (c) Where the cause is affliction with a sexually transmitted
11 disease existing at the time of marriage, by the party who was so
12 afflicted if such party has subsequent to the marriage become
13 cured of such disease, nor by the person who was not so afflicted
14 if he or she after the curing of the afflicted person has by acts or
15 conduct confirmed the marriage;

16 (d) Where the cause is the nonage of either of the parties, by
17 the party who was capable of consenting, nor by the party not so
18 capable if he or she has by acts or conduct confirmed the
19 marriage after arriving at the age of consent; or

20 (e) Where the cause is lack of consent on the part of either
21 of the parties, by the party consenting or bringing about the
22 marriage;

23 (f) Where the cause is that either of the parties has been
24 convicted of a crime punishable by imprisonment in excess of
25 one year under the applicable law of this state, another state or
26 the United States prior to marriage, by the other party if, after
27 knowledge of such fact, he or she has cohabited with the party so
28 convicted; or

29 (g) Where the cause is that the wife was at the time of
30 marriage with child by some person other than the husband, by
31 the husband, if after knowledge of the fact he has cohabited with
32 the wife.

CHAPTER 43

**(Com. Sub. for H. B. 4139 - By Delegates Guthrie,
L. Phillips, Rowan, Fleischauer, Border, Lawrence,
Marshall, Staggers, Poore and P. Smith)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §48-9-209a, relating to restricted parental rights of child custodial responsibility and parenting time when a child was conceived as a result of a sexual assault or certain sexual abuse; denying custodial responsibility and parenting time rights to a natural parent convicted of sexual assault when a child is produced as a result of the offense; providing limited exceptions when the biological parents cohabit; creating a rebuttable presumption against the allocation of exclusive or shared custodial responsibility or parenting time to the perpetrator of the offense after cohabitation with the other parent under certain circumstances; requiring the court to find by clear

and convincing evidence that custodial responsibility or parenting time by a person convicted of sexual assault or certain sexual abuse is in the best interest of the child, victim, that the victim consents and certain other facts in order to allocate such custodial responsibility or parenting time; and clarifying the natural parent's continuing support obligations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §48-9-209a, to read as follows:

**ARTICLE 9. ALLOCATION OF CUSTODIAL
RESPONSIBILITY AND
DECISION - MAKING
RESPONSIBILITY OF CHILDREN.**

Part 2 – Parenting Plans

§48-9-209a. Child conceived as result of sexual assault or sexual abuse by a parent; rights of a biological parent convicted of sexual assault or abuse; post-conviction cohabitation; rebuttable presumption upon separation or divorce.

1 (a) Except as otherwise provided in this section, if a child
2 custodial responsibility or parenting time dispute involves a
3 child who is conceived as a result of acts by which one of the
4 child's biological parents has been convicted of sexual assault,
5 pursuant to section three, four or five, article eight-b, chapter
6 sixty-one of this code, or of sexual abuse by a parent, guardian
7 or custodian, pursuant to section five, article eight-d, chapter
8 sixty-one of this code, the court shall not allocate custodial
9 responsibility to the biological parent convicted of the sexual
10 assault, and the convicted parent has no right to parenting time
11 with the child unless the court finds by clear and convincing

12 evidence set forth in written findings that it is in the best
13 interests of the child, adequately protects the child and the victim
14 of the sexual offense and that the person or persons with
15 custodial responsibility of the child consent thereto.

16 (b) Subsection (a) does not apply if:

17 (1) The biological parents are husband and wife at the time
18 of the offense and, after the date of conviction, cohabit and
19 establish a mutual custodial environment for the child; or

20 (2) After the date of conviction, the unmarried biological
21 parents cohabit and establish a mutual custodial environment for
22 the child.

23 (c) If persons described by subsection (b) of this section later
24 separate or divorce, the conviction of sexual assault, pursuant to
25 section three, four or five, article eight-b, chapter sixty-one of
26 this code, or of sexual abuse by a parent, guardian or custodian,
27 pursuant to section five, article eight-d, chapter sixty-one of this
28 code creates a rebuttable presumption that exclusive or shared
29 custodial responsibility of the child by the perpetrator of the
30 offense is not in the best interests of the child. The convicted
31 parent has no right to parenting time with the child unless the
32 court finds by clear and convincing evidence set forth in written
33 findings that, despite the rebuttable presumption required by this
34 subsection, a custodial responsibility or parenting time
35 arrangement with the convicted parent is in the best interests of
36 the child, adequately protects the child and the victim of the
37 sexual offense, and that the victim of the sexual offense consents
38 thereto.

39 (d) A denial of custodial responsibility or parenting time
40 under this section does not by itself terminate the parental rights
41 of the person denied custodial responsibility or parenting time,
42 nor does it affect the obligation of the person to support the
43 minor child.

CHAPTER 44

(Com. Sub. for S. B. 431 - By Senator Beach)

[Passed March 7, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §17B-2-8, §17B-2-12 and §17B-2-12a of the Code of West Virginia, 1931, as amended, all relating to issuance and renewal of driver's licenses; changing the renewal cycle for driver's licenses from five to eight years; allowing the commissioner to provide a program for online renewal of driver's licenses; providing an additional fee for the issuance of driver's license issued for federal use; permitting more uses for military identification cards; permitting license expiration notifications by electronic means; and clarifying that a driver's license which is valid for the operation of a commercial motor vehicle shall be issued in accordance with chapter seventeen-e of the West Virginia Code.

Be it enacted by the Legislature of West Virginia:

That §17B-2-8, §17B-2-12 and §17B-2-12a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.

§17B-2-8. Issuance and contents of licenses; fees.

- 1 (a) The division shall, upon payment of the required fee,
- 2 issue to every applicant qualifying therefor a driver's license,
- 3 which shall indicate the type or general class or classes of

4 vehicle or vehicles the licensee may operate in accordance with
5 this chapter or chapter seventeen-e of this code, or motorcycle-
6 only license. Each license shall contain a coded number assigned
7 to the licensee, the full legal name, date of birth, residence
8 address, a brief description and a color photograph of the
9 licensee and either a facsimile of the signature of the licensee or
10 a space upon which the signature of the licensee is written with
11 pen and ink immediately upon receipt of the license. No license
12 is valid until it has been so signed by the licensee.

13 (b) A driver's license which is valid for operation of a
14 motorcycle shall contain a motorcycle endorsement. A driver's
15 license which is valid for the operation of a commercial motor
16 vehicle shall be issued in accordance with chapter seventeen-e
17 of this code.

18 (c) The division shall use such process or processes in the
19 issuance of licenses that will, insofar as possible, prevent any
20 identity theft, alteration, counterfeiting, duplication,
21 reproduction, forging or modification of, or the superimposition
22 of a photograph on, the license.

23 (d) The fee for the issuance of a Class E driver's license is
24 \$2.50 per year for each year the license is valid. The fee for
25 issuance of a Class D driver's license is \$6.25 per year for each
26 year the license is valid. An additional fee of \$0.50 shall be
27 collected from the applicant at the time of original issuance or
28 each renewal and the additional fee shall be deposited in the
29 Combined Voter Registration and Driver's Licensing Fund
30 established pursuant to the provisions of section twelve, article
31 two, chapter three of this code. The additional fee for adding a
32 motorcycle endorsement to a driver's license is \$1 per year for
33 each year the license is issued.

34 (e) The fee for issuance of a motorcycle-only license is \$2.50
35 for each year for which the motorcycle license is valid. The fees

36 for the motorcycle endorsement or motorcycle-only license shall
37 be paid into a special fund in the State Treasury known as the
38 Motorcycle Safety Fund as established in section seven, article
39 one-d of this chapter.

40 (f) The fee for the issuance of either the level one or level
41 two graduated driver's license as prescribed in section three-a of
42 this article is \$5.

43 (g) The fee for issuance of a federally compliant driver's
44 license or identification card for federal use is \$10 in addition to
45 any other fee required by this chapter. Any fees collected under
46 the provisions of this subsection shall be deposited into the
47 Motor Vehicle Fees Fund established in accordance with section
48 twenty-one, article two, chapter seventeen-a of this code.

49 (h) The division may use an address on the face of the
50 license other than the applicant's address of residence if:

51 (1) The applicant has a physical address or location that is
52 not recognized by the post office for the purpose of receiving
53 mail;

54 (2) The applicant is enrolled in a state address confidentiality
55 program or the alcohol test and lock program;

56 (3) The applicant's address is entitled to be suppressed under
57 a state or federal law or suppressed by a court order; or

58 (4) At the discretion of the commissioner, the applicant's
59 address may be suppressed to provide security for classes of
60 applicants such as law-enforcement officials, protected witnesses
61 and members of the state and federal judicial systems.

62 (i) Notwithstanding any provision in this article to the
63 contrary, a valid military identification card with an expiration
64 date issued by the United States Department of Defense for

65 active duty, reserve or retired military personnel containing a
66 digitized photo and the holder's full legal name may be used to
67 establish current full legal name and legal presence. The
68 commissioner may at his or her discretion expand the use of
69 military identification cards for other uses as permitted under
70 this code or federal rule.

§17B-2-12. Expiration of licenses.

1 (a) Except as provided in subsection (c) of this section, every
2 driver's license expires eight years from the date of its issuance.

3 (b)(1) Every driver's license issued to a person who has
4 attained his or her twenty-first birthday expires on the licensee's
5 birthday. The commissioner may modify the expiration date of
6 any license as necessary to effectuate the transition from the
7 five-year renewal cycle to an eight-year renewal cycle as he or
8 she considers necessary.

9 (2) Every driver's license issued to a person who has not
10 attained his or her twenty-first birthday expires thirty days after
11 the licensee's twenty-first birthday, except as provided in section
12 three-a of this article.

13 (3) The driver's license of any person in the armed forces
14 expires six months after the date on which the person is
15 separated from active duty in the armed forces under honorable
16 circumstances.

17 (c) A license issued to a person who is not a citizen of the
18 United States may only be issued for the time the person is
19 legally authorized to be in the United States, not to exceed eight
20 years. If the time the person is authorized to be in the United
21 States is extended, the commissioner may renew the license in
22 accordance with section twelve-a of this article for the time
23 extended, not to exceed eight years.

§17B-2-12a. Renewal of driver's license upon expiration; vision screening; renewal fees.

1 (a) The commissioner shall notify each person who holds a
2 valid driver's license of the expiration date of the license by first
3 class mail or by electronic means to the last address known to
4 the division. The notice shall be mailed at least ninety days prior
5 to the expiration date of the license and shall include a renewal
6 application form and instructions for renewal.

7 (b) The commissioner, at his or her discretion, may provide
8 a program of electronic renewal notices to licensees and an
9 electronic web-based renewal process. This process may include
10 an electronic vision screening verification or waiver subject to
11 processes and restrictions the commissioner considers necessary
12 for highway safety, secure processing and identity verification.
13 The online program shall require the applicant to have his or her
14 digital photo updated at least once every sixteen years.

15 (c) The holder of a valid driver's license may apply to the
16 division for renewal of the license on the form provided by the
17 division. To be eligible for license renewal the applicant must:

18 (1) Pay the fee required by section eight of this article;

19 (2) Obtain a new color photograph from the division, except
20 as provided in subsection (b) of this section; and

21 (3) Pass a vision screening conducted in the manner
22 prescribed by the division.

23 (d) The commissioner shall assess an additional fee of \$5 for
24 every application for renewal submitted after the expiration of
25 the applicant's license.

26 (e) The commissioner shall determine whether an applicant
27 qualifies for a renewed license.

28 (f) The commissioner shall provide by rule a procedure by
29 which an applicant who does not meet the minimum vision
30 standards for licensure may present evidence to show that his or
31 her vision has been corrected to meet the minimum visual
32 standards and that he or she is capable of safely operating a
33 motor vehicle.

34 (g) The commissioner may not renew the driver's license of
35 an applicant whose eyesight cannot be corrected to conform to
36 the minimum vision standards established by this code and by
37 the rules of the commissioner.

38 (h) Vision screening conducted pursuant to this section may
39 not be used to collect any type of personal biometric identifying
40 information including, but not limited to, a retinal scan.

41 (i) The commissioner shall propose legislative rules for
42 promulgation in accordance with the provisions of article three,
43 chapter twenty-nine-a of this code to implement the provisions
44 of this section.

CHAPTER 45

**(Com. Sub. for H. B. 4175 - By Delegates Skaff, Barrett,
Mr. Speaker (Mr. Miley), Boggs, Hartman, White,
Skinner, Lane, Ellem, Ireland and Pasdon)**

[Passed March 6, 2014; in effect from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-1-8, relating to providing financial assistance to small businesses for losses arising

during states of emergency; authorizing the Department of Commerce to provide short-term, low-interest loans to adversely-affected small businesses; specifying eligibility criteria; requiring written finding by the Governor; establishing an application process and time period; setting limits on the aggregate and individual amounts of loans and their duration and quantity; accounting for interest collected on program loans; requiring written loan agreement; declaring legal obligation to the state; authorizing actions to recover delinquent loans; authorizing and requiring the filing of emergency and legislative rules; and requiring the filing of annual reports.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5B-1-8, to read as follows:

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-8. Financial assistance for small businesses during state of emergency.

1 (a) The Department of Commerce is authorized to make
2 short-term, low-interest loans available to small businesses
3 located in counties listed in a state declaration of a state of
4 emergency. The purpose of these loans is to mitigate the effects
5 of business losses resulting from the conditions giving rise to the
6 state of emergency where other forms of compensation or relief
7 are not available.

8 (b) For purposes of this section, an eligible, small business
9 means a business with less than seventy-five full-time or full-
10 time equivalent employees, operating lawfully within this state
11 and in compliance with the state's tax, unemployment
12 compensation and workers' compensation laws, and which meets
13 the criteria specified by the Department of Commerce by rule for
14 issuance of a loan.

15 (c) The loan program provided by this section shall only be
16 available when the Governor makes a written finding, following
17 a declaration of a state of emergency by either the Governor or
18 the Legislature, that a substantial portion of small businesses
19 within the relevant counties require emergency financial
20 assistance and authorizes the Department of Commerce to issue
21 loans through this program: *Provided*, That the authorization
22 also identify an appropriate source of funding for the loans.

23 (d) Following the Governor's finding and authorization, an
24 eligible, small business may make application for an emergency
25 assistance loan at any time within the duration of a state of
26 emergency, declared pursuant section six, article five, chapter
27 fifteen of this code, and up to ninety days after the termination
28 of the state of emergency. The application shall be made to the
29 division or office designated by the Secretary of Commerce to
30 administer the loan program. Only one loan will be permitted to
31 a business for losses arising out of a declared state of emergency
32 and shall only be available to a business that is located within a
33 county identified in the declaration of the state of emergency.
34 Eligibility provisions of this subsection may apply to any state
35 of emergency, declared by the Governor or the Legislature, that
36 is in effect upon the effective date of this section, but in no event
37 shall loans be made for business losses incurred or originating
38 prior to January 1, 2014.

39 (e) The source of principal for any loan provided under this
40 section shall be from funds appropriated to the Civil Contingent
41 Fund or from any other appropriation designated for or
42 applicable to the purpose of providing state of emergency loans
43 to small businesses. The principal amount of any loan provided
44 under this section shall not exceed \$20,000 and the interest rate
45 of the loan shall be fixed at a rate equal to half of the federal
46 prime interest rate published at the time of execution of a written
47 agreement between the agency and the loan recipient. The period
48 of duration for loans shall be not more than twenty-four months.

49 The provision of loans is subject to the availability of funds and
50 shall not exceed an aggregate amount of \$2 million per declared
51 state of emergency, unless a greater amount is authorized by
52 subsequent appropriation of the Legislature.

53 (f) Payments of interest on loans provided pursuant to this
54 section shall be credited to the general fund of the state.
55 Payments of principal shall be credited back to the source of
56 funding, or if the source of funding has expired, to the general
57 revenue fund of the state.

58 (g) Loans will only be provided upon execution of a written
59 agreement with the Department of Commerce, or with the
60 authorized designee of the Secretary of Commerce. The duty to
61 repay the principal and pay the interest constitutes a debt to the
62 state. The Secretary of Commerce or his or her designated
63 representative is authorized to enforce, by any legal means, the
64 provisions of the written agreement and to pursue collection of
65 any and all amounts due under the terms of the written
66 agreement and any costs to the state for the collection.

67 (h) Following the effective date of this section, the Secretary
68 of Commerce shall designate an office or division within the
69 Department of Commerce to administer the loan program and
70 shall, acting through the designated office or division,
71 promulgate emergency rules and propose corresponding
72 legislative rules for consideration and authorization by the
73 legislature to describe and delineate the manner in which
74 application for loans will be submitted and reviewed, the criteria
75 for approval of loan applications, including, but not limited to,
76 the credit history of the applicant, required security and other
77 provisions necessary for the efficient administration of this
78 program.

79 (i) When the Governor authorizes the Department of
80 Commerce to issue loans hereunder following the declaration of

81 a state of emergency, the Secretary of Commerce shall make a
82 report to the Joint Committee on Government and Finance at the
83 conclusion of each fiscal year in which the loan program is in
84 effect and loans are outstanding, regarding the number of
85 businesses that have applied for loans, the number of loans
86 approved, the amounts awarded, the number of employees
87 affected thereby and a financial statement including the balance
88 of funds available and the aggregate amount of principal and
89 interest outstanding and due to the state.

CHAPTER 46

**(H. B. 4302 - By Delegates Skaff, Guthrie, Poore, Wells,
Perry, Pasdon and Walters)**

[Passed March 6, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §11-8-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §13-1-13 of said code; and to amend and reenact §18-9-2 of said code, all relating to elections for public school purposes; clarifying certain language; and designating the county commission as the board of canvassers to canvass the returns of all levy and bond elections for public school purposes.

Be it enacted by the Legislature of West Virginia:

That § 11-8-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §13-1-13 of said code be amended and reenacted; and that § 18-9-2 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.**ARTICLE 8. LEVIES.****§11-8-17. Special levy elections; notices; election officers; conduct of election; supplies; canvass of returns; form of ballot.**

1 (a) The local levying body shall publish a notice, calling the
2 election, as a Class II-0 legal advertisement in compliance with
3 the provisions of article three, chapter fifty-nine of this code, and
4 the publication area for such publication shall be the territory in
5 which the election is held. Such notice shall be so published
6 within fourteen consecutive days next preceding the election.

7 (b) All the provisions of the law concerning general elections
8 shall apply so far as they are practicable, except as follows:

9 (1) Where a special election is held, the local levying body,
10 having due regard to the minimum expense involved, shall
11 determine the number of election officials necessary to properly
12 conduct said election, which number shall in no case be less than
13 three commissioners and two clerks, and shall appoint the same
14 and fix and pay their compensation, but otherwise the election
15 officials shall be such as are appointed to serve with respect to
16 the general election held at the same time.

17 (2) The local levying body shall provide the election supplies
18 necessary for such election and shall canvass the returns thereof:
19 *Provided*, That the county commission is the board of canvassers
20 to canvass the returns of levy elections called by the board of
21 education.

22 (c) A separate ballot shall be used at a levy election held in
23 connection with any other election. The ballot shall be entitled:
24 "Special election to authorize additional levies for the year(s)
25 _____ and for the purpose of _____ according

26 to the order of the _____ entered on the _____
27 day of _____.”

28 The additional levy shall be on Class I property _____
29 cents; on Class II property _____ cents; on Class III
30 property (if any) _____ cents; on Class IV property
31 (if any) _____ cents.

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.

§13-1-13. Time and manner of canvassing returns.

1 The authorities calling bond elections shall canvass the
2 returns at the same time with reference to the election and in the
3 same manner as is required of county commissions for general
4 elections: *Provided*, That the county commission is the board of
5 canvassers to canvass the returns of bond elections called by the
6 board of education.

CHAPTER 18. EDUCATION.

ARTICLE 9. SCHOOL FINANCES.

§18-9-2. Elections under this chapter; procedure.

1 Any and all elections authorized by this chapter for school
2 purposes may, unless otherwise provided, be held separately or
3 in connection with any general or special election. Notice of an
4 election shall be given by the publication of the order of the
5 board calling the same as a Class II-0 legal advertisement in
6 compliance with the provisions of article three, chapter fifty-nine
7 of this code, and the publication area for such publication is the
8 territory in which the election is to be held. The order shall be
9 published within fourteen consecutive days next preceding the
10 day of election. All provisions of the law concerning general and
11 special elections apply in these elections insofar as is practicable.

12 In cases of special elections the board calling the election shall
13 appoint necessary election officers. The secretary of the board
14 shall procure and furnish to the election commissioners at each
15 place of voting the ballots, poll books, tally sheets and other
16 election supplies necessary for the election. In calling elections,
17 district and county boards of education shall follow the forms
18 prescribed by the Attorney General. For all elections authorized
19 by this chapter for school purposes, the county commission is the
20 board of canvassers to canvass the returns.

CHAPTER 47

**(Com. Sub. for H. B. 4228 - By Delegates M. Poling, Perry,
Lawrence, Barrett, Young, Tomblin, Barill, Moye,
Campbell, Walker and Pethtel)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 31, 2014.]

AN ACT to repeal §11-8-16a of the Code of West Virginia, 1931, as amended; to repeal §18-2-17 of said code; to repeal §18-2E-5b and §18-2E-8b of said code; to repeal §18-2G-1, §18-2G-2 and §18-2G-3 of said code; to repeal §18-5-15e and §18-5-38 of said code; to repeal §18-7-1, §18-7-2 and §18-7-3 of said code; to repeal §18-9A-6b, §18-9A-14a and §18-9A-19 of said code; to repeal §18-9C-1, §18-9C-2, §18-9C-3, §18-9C-4, §18-9C-5, §18-9C-6, §18-9C-7 and §18-9C-8 of said code; to repeal §18A-3-1c and §18A-3-1d of said code; to repeal §18A-4-10b and §18A-4-14a of said code; to amend and reenact §18-2-5a and §18-2-13 of said code; to amend and reenact §18-2E-7 of said code; to amend and reenact §18-8-1a of said code; and to amend and reenact §18A-2-12 of said code, all relating to repealing or removing certain portions of education-

related statutes that are no longer applicable or are expired; repealing the authorization for county boards of education with an excess levy in effect prior to Better Schools Amendment to propose an additional excess levy not exceeding one hundred percent and a period of five years; repealing an expired pilot program for the delivery of leftover foods from schools and penal institutions; repealing expired provisions for review of system of education performance audits; repealing an expired requirement for audit of state board policies; repealing the library media improvement grant program; repealing an expired requirement for study on school equity; repealing an expired provision governing county board meetings; repealing an adult literacy education program financed, in part, by a voluntary state income tax return check-off; repealing the appropriation and allocation, up to \$7 million, due to the increase in local share to Teachers Retirement System; repealing the incentive for administrative efficiency in public schools and its associated funding to the county boards of education; repealing a requirement for county boards of education to request funds to which they may be entitled; repealing the Better School Buildings Amendment and associated funding to county boards of education; repealing an expired study on training, certification, licensure and retraining of teachers; repealing a study of alternative certification programs that was required to be submitted to the Legislative Oversight Commission on Education Accountability by December 31, 2013; repealing the requirement to record and distribute exemplary teaching techniques and its associated bonuses to certain teachers; repealing an expired study on daily planning periods; providing that the State Board of Education need only file a single copy of a proposed rule with the Legislative Oversight Commission; removing the requirement that the State Board of Education contract with an independent agency to evaluate the results of character education and biannual reporting; changing the requirement from a school-by-school to a countywide plan for provision of technology and services to

students as part of the twenty-first century strategic learning plan; removing the requirement for semiannual reporting on the effect of the increased compulsory attendance age of students and the progress the state and county boards have made in implementing its associated requirements; and clarifying that the written evaluation system for employment performance of personnel must be conducted at least annually on professional personnel and removing related transitional language.

Be it enacted by the Legislature of West Virginia:

That §11-8-16a of the Code of West Virginia, 1931, as amended, be repealed; that §18-2-17 of said code be repealed; that §18-2E-5b and §18-2E-8b of said code be repealed; that §18-2G-1, §18-2G-2 and §18-2G-3 of said code be repealed; that §18-5-15e and §18-5-38 of said code be repealed; that §18-7-1, §18-7-2 and §18-7-3 of said code be repealed; that §18-9A-6b, §18-9A-14a and §18-9A-19 of said code be repealed; that §18-9C-1, §18-9C-2, §18-9C-3, §18-9C-4, §18-9C-5, §18-9C-6, §18-9C-7 and §18-9C-8 of said code be repealed; that §18A-3-1c and §18A-3-1d of said code be repealed; that §18A-4-10b and §18A-4-14a of said code be repealed; that §18-2-5a and §18-2-13 of said code be amended and reenacted; that §18-2E-7 of said code be amended and reenacted; that §18-8-1a of said code be amended and reenacted, and that §18A-2-12 of said code be amended and reenacted all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5a. Board rules to be filed with Legislature.

- 1 The State Board of Education shall file a copy of any rule
- 2 that it proposes to promulgate, adopt, amend or repeal under the
- 3 authority of the Constitution or of this code with the Legislative
- 4 Oversight commission on education accountability pursuant to

5 article three-b, chapter twenty-nine-a of this code. “Rule,” as
6 used herein, means a regulation, standard, statement of policy,
7 or interpretation of general application and future effect.

§18-2-13. Character education integration.

1 (a) The state board shall establish a comprehensive approach
2 to integrate character education into all aspects of school culture,
3 school functions and existing curriculum.

4 (b) The state board shall require all public schools that
5 operate from preschool to grade twelve to develop and integrate
6 components of character development into their existing
7 curriculum. The schools may incorporate such programs as “life
8 skills”, “responsible students”, or any other program
9 encompassing any of the following components:

10 (1) Honesty;

11 (2) Caring;

12 (3) Citizenship;

13 (4) Justice;

14 (5) Fairness;

15 (6) Respect;

16 (7) Responsibility;

17 (8) Voting;

18 (9) Academic achievement;

19 (10) Completing homework assignments;

- 20 (11) Improving daily attendance;
- 21 (12) Avoiding and resolving conflicts;
- 22 (13) Alternatives to violence;
- 23 (14) Contributing to an orderly positive school environment;
- 24 (15) Participating in class;
- 25 (16) Resisting social peer pressures to smoke, drink and use
26 drugs;
- 27 (17) Developing greater self-esteem and self-confidence;
- 28 (18) Effectively coping with social anxiety;
- 29 (19) Increasing knowledge of the immediate consequences
30 of substance abuse;
- 31 (20) Increasing knowledge of the consequences of ones
32 actions;
- 33 (21) The corrupting influence and chance nature of
34 gambling; and
- 35 (22) The value of decent, honest work.
- 36 (c) Character education shall be integrated into each public
37 school curriculum by September 1, 2001.
- 38 (d) The state board shall assist county boards in developing
39 in-service training regarding integrated character education as
40 provided in this section.
- 41 (e) The State Department of Education is encouraged to
42 utilize any existing moneys available to the department for

43 existing character development programs, along with any new
44 funds appropriated for the purposes of this section, to secure the
45 maximum amount of any federal funding available for which the
46 state department is eligible to receive for implementing character
47 development in the schools.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-7. Providing for twenty-first century instruction and learning in all public schools.

1 (a) The Legislature finds that:

2 (1) The knowledge and skills children need to succeed in the
3 twenty-first century are changing dramatically and that West
4 Virginia students must develop proficiency in twenty-first
5 century content, technology tools and learning skills to succeed
6 and prosper in life, in school and on the job;

7 (2) Students must be equipped to live in a multitasking,
8 multifaceted, technology-driven world;

9 (3) The provision of twenty-first century technologies and
10 software resources in grades prekindergarten through twelve is
11 necessary to meet the goal that high school graduates will be
12 prepared fully for college, other post-secondary education or
13 gainful employment;

14 (4) This goal reflects a fundamental belief that the youth of
15 the state exit the system equipped with the skills, competencies
16 and attributes necessary to succeed, to continue learning
17 throughout their lifetimes and to attain self-sufficiency;

18 (5) To promote twenty-first century learning, teachers must
19 be competent in twenty-first century content and learning skills
20 and must be equipped to fully integrate technology to transform
21 instructional practice and to support twenty-first century skills
22 acquisition;

23 (6) For students to learn twenty-first century skills, students
24 and teachers must have equitable access to high quality, twenty-
25 first century technology tools and resources;

26 (7) When aligned with standards and curriculum,
27 technology-based assessments can be a powerful tool for
28 teachers; and

29 (8) Teachers must understand how to use technology to
30 create classroom assessments for accurate, timely measurements
31 of student proficiency in attainment of academic content and
32 twenty-first century skills.

33 (b) The state board shall ensure that the resources to be used
34 to provide technology services to students in grades
35 prekindergarten through twelve are included in a West Virginia
36 21st Century Strategic Technology Learning Plan to be
37 developed by the Department of Education as an integral
38 component of the county electronic strategic improvement plan
39 required in section five of this article. The provision of
40 technologies and services to students and teachers shall be based
41 on a county technology plan developed by a team that includes
42 school building-level professional educators and is aligned with
43 the goals and objectives of the West Virginia 21st Century
44 Strategic Technology Learning Plan. This plan shall be an
45 integral component of the county electronic strategic
46 improvement plan as required in section five of this article.
47 Funds shall be allocated equitably to county school systems
48 following peer review of the plans that includes providing
49 necessary technical assistance prior to submission and allows
50 timely review and approval by the West Virginia Department of
51 Education. Technology tools, including hardware, software,
52 network cabling, network electronics and related professional
53 development, shall be purchased pursuant to the provisions of
54 article three, chapter five-a of this code in the amount equal to
55 anticipated revenues being appropriated and based on the

56 approved county plans. County allocations that support this
57 legislation shall adhere to state contract prices: *Provided*, That
58 contingent upon approval of the county technology plan,
59 counties that identify, within that plan, specific software or
60 peripheral equipment not listed on the state contract, but
61 necessary to support implementation of twenty-first century
62 skills, may request the West Virginia Department of Education
63 to secure state purchasing prices for those identified items. Total
64 expenditure to purchase these additional items may not exceed
65 ten percent of the annual county allocation. To the extent
66 practicable, the technology shall be used:

67 (1) To maximize student access to learning tools and
68 resources at all times including during regular school hours,
69 before and after school or class, in the evenings, on weekends
70 and holidays and for public education, noninstructional days and
71 during vacations; and

72 (2) For student use for homework, remedial work,
73 independent learning, career planning and adult basic education.

74 (c) The implementation of this section should provide a
75 technology infrastructure capable of supporting multiple
76 technology-based learning strategies designed to enable students
77 to achieve at higher academic levels. The technology
78 infrastructure should facilitate student development by
79 addressing the following areas:

80 (1) Mastery of rigorous core academic subjects in grades
81 prekindergarten through eight by providing software, other
82 technology resources or both aligned with state standards in
83 reading, mathematics, writing, science, social studies, twenty-
84 first century learning skills and twenty-first century learning
85 tools;

86 (2) Mastery of rigorous core academic subjects in grades
87 nine through twelve by providing appropriate twenty-first

88 century technology tools aligned with state standards for
89 learning skills and technology tools;

90 (3) Attainment of twenty-first century skills outcomes for all
91 students in the use of technology tools and learning skills;

92 (4) Proficiency in new, emerging twenty-first century
93 content;

94 (5) Participation in relevant, contextual instruction that uses
95 dynamic, real-world contexts that are engaging and meaningful
96 for students, making learning relevant to life outside of school
97 and bridging the gap between how students live and how they
98 learn in school;

99 (6) Ability to use digital and emerging technologies to
100 manage information, communicate effectively, think critically,
101 solve problems, work productively as an individual and
102 collaboratively as part of a team and demonstrate personal
103 accountability and other self-directional skills;

104 (7) Providing students with information on post-secondary
105 educational opportunities, financial aid and the skills and
106 credentials required in various occupations that will help them
107 better prepare for a successful transition following high school;

108 (8) Providing greater access to advanced and other curricular
109 offerings than could be provided efficiently through traditional
110 on-site delivery formats, including increasing student access to
111 quality distance learning curricula and online distance education
112 tools;

113 (9) Providing resources for teachers in differentiated
114 instructional strategies, technology integration, sample lesson
115 plans, curriculum resources and online staff development that
116 enhance student achievement; and

117 (10) Providing resources to support basic skills acquisition
118 and improvement at the above mastery and distinguished levels.

119 (d) Developed with input from appropriate stakeholder
120 groups, the West Virginia 21st Century Strategic Technology
121 Learning Plan shall be an integral component of the electronic
122 strategic county improvement plan as required in section five of
123 this article. The West Virginia 21st Century Strategic
124 Technology Learning Plan shall be comprehensive and shall
125 address, but not necessarily be limited to, the following
126 provisions:

127 (1) Allocation of adequate resources to provide students with
128 equitable access to twenty-first century technology tools,
129 including instructional offerings and appropriate curriculum,
130 assessment and technology integration resources aligned to both
131 the content and rigor of state content standards as well as to
132 learning skills and technology tools;

133 (2) Providing students and staff with equitable access to a
134 technology infrastructure that supports the acquisition of twenty-
135 first century skills, including the ability to access information,
136 solve problems, communicate clearly, make informed decisions,
137 acquire new knowledge, construct products, reports and systems
138 and access online assessment systems;

139 (3) Inclusion of various technologies that enable and
140 enhance the attainment of twenty-first century skills outcomes
141 for all students;

142 (4) Collaboration with various partners, including parents,
143 community organization, higher education, schools of education
144 in colleges and universities, employers and content providers;

145 (5) Seeking of applicable federal government funds,
146 philanthropic funds, other partnership funds or any combination
147 of those types of funds to augment state appropriations and

148 encouraging the pursuit of funding through grants, gifts,
149 donations or any other sources for uses related to education
150 technology;

151 (6) Sufficient bandwidth to support teaching and learning
152 and to provide satisfactorily for instructional management needs;

153 (7) Protection of the integrity and security of the network, as
154 well as student and administrative workstations;

155 (8) Flexibility to adjust the plan based on developing
156 technology, federal and state requirements and changing local
157 school and county needs;

158 (9) Incorporation of findings based upon validation from
159 research-based evaluation findings from previous West Virginia-
160 based evaluation projects;

161 (10) Continuing study of emerging technologies for
162 application in a twenty-first century learning environment and
163 inclusion in the technology plan, as appropriate;

164 (11) An evaluation component to determine the effectiveness
165 of the program and make recommendations for ongoing
166 implementation;

167 (12) A program of embedded, sustained professional
168 development for teachers that is strategically developed to
169 support a twenty-first century education for all students and that
170 aligns with state standards for technology, integrates twenty-first
171 century skills into educational practice and supports the
172 implementation of twenty-first century software, technology and
173 assessment resources in the classroom;

174 (13) Providing for uniformity in technological hardware and
175 software standards and procedures;

176 (14) The strategy for ensuring that the capabilities and
177 capacities of the technology infrastructure is adequate for
178 acceptable performance of the technology being implemented in
179 the public schools;

180 (15) Providing for a comprehensive, statewide uniform,
181 integrated education management and information system for
182 data collection and reporting to the Department of Education as
183 provided in section twenty-six, article two of this chapter and
184 commonly referred to as the West Virginia Education
185 Information System;

186 (16) Providing for an effective model for the distance
187 delivery, virtual delivery or both types of delivery of instruction
188 in subjects where there exists low student enrollment or a
189 shortage of certified teachers or where the delivery method
190 substantially improves the quality of an instructional program
191 such as the West Virginia Virtual School;

192 (17) Providing a strategy to implement, support and maintain
193 technology in the public schools;

194 (18) Providing a strategy to provide ongoing support and
195 assistance to teachers in integrating technology into twenty-first
196 century instruction such as with technology integration
197 specialists;

198 (19) A method of allowing public education to take
199 advantage of appropriate bulk purchasing abilities and to
200 purchase from competitively bid contracts initiated through the
201 southern regional education board educational technology
202 cooperative and the America TelEdCommunications Alliance;

203 (20) Compliance with United States Department of
204 Education regulations and Federal Communications Commission
205 requirements for federal E-rate discounts; and

206 (21) Other provisions as considered appropriate, necessary
207 or both to align with applicable guidelines, policies, rules,
208 regulations and requirements of the West Virginia Legislature,
209 the Board of Education and the Department of Education.

210 (e) Any state code and budget references to the Basic
211 Skills/Computer Education Program and the SUCCESS Initiative
212 will be understood to refer to the statewide technology initiative
213 referenced in this section, commonly referred to as the 21st
214 Century Tools for 21st Century Schools Technology Initiative.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1a. Commencement and termination of compulsory school attendance; public school entrance requirements; exceptions.

1 (a) Notwithstanding the provisions of section one of this
2 article, compulsory school attendance begins with the school
3 year in which the sixth birthday is reached prior to September 1
4 of such year or upon enrolling in a publicly supported
5 kindergarten program and, subject to subdivision (3) of this
6 subsection, continues to the sixteenth birthday or for as long as
7 the student continues to be enrolled in a school system after the
8 sixteenth birthday.

9 (1) A child may be removed from such kindergarten program
10 when the principal, teacher and parent or guardian concur that
11 the best interest of the child would not be served by requiring
12 further attendance: *Provided*, That the principal shall make the
13 final determination with regard to compulsory school attendance
14 in a publicly supported kindergarten program.

15 (2) The compulsory school attendance provision of this
16 article shall be enforced against a person eighteen years of age
17 or older for as long as the person continues to be enrolled in a
18 school system, and may not be enforced against the parent,
19 guardian, or custodian of the person.

20 (3) Beginning with the 2011-2012 high school freshman
21 cohort class of students, and notwithstanding the provisions of
22 section one of this article, compulsory school attendance begins
23 with the school year in which the sixth birthday is reached prior
24 to September 1 of such year or upon enrolling in a publicly
25 supported kindergarten program and continues to the seventeenth
26 birthday or for as long as the student continues to be enrolled in
27 a school system after the seventeenth birthday.

28 (b) Attendance at a state-approved or Montessori
29 kindergarten, as provided in section eighteen, article five of this
30 chapter, is deemed school attendance for purposes of this
31 section. Prior to entrance into the first grade in accordance with
32 section five, article two of this chapter, each child must have
33 either:

34 (1) Successfully completed such publicly or privately
35 supported, state-approved kindergarten program or Montessori
36 kindergarten program; or

37 (2) Successfully completed an entrance test of basic
38 readiness skills approved by the county in which the school is
39 located. The test may be administered in lieu of kindergarten
40 attendance only under extraordinary circumstances to be
41 determined by the county board.

42 (c) Notwithstanding the provisions of this section and of
43 section five, article two of this chapter and section eighteen,
44 article five of this chapter, a county board may provide for
45 advanced entrance or placement under policies adopted by said
46 board for any child who has demonstrated sufficient mental and
47 physical competency for such entrance or placement.

48 (d) This section does not prevent a student from another state
49 from enrolling in the same grade in a public school in West
50 Virginia as the student was enrolled at the school from which the
51 student transferred.

CHAPTER 18A. SCHOOL PERSONNEL.**ARTICLE 2. SCHOOL PERSONNEL.****§18A-2-12. Performance evaluations of school personnel; professional personnel evaluation process; restrictions on requirements on lesson plans and record keeping by classroom teachers.**

1 (a) The state board shall adopt a written system for the
2 evaluation of the employment performance of personnel, which
3 system shall be applied uniformly by county boards in the
4 evaluation of the employment performance of personnel
5 employed by the board.

6 (b) The system adopted by the state board for evaluating the
7 employment performance of professional personnel shall be in
8 accordance with the provisions of this section.

9 (c) For purposes of this section, “professional personnel”,
10 “professional” or “professionals”, means professional personnel
11 and other professional employees, as defined in section one,
12 article one of this chapter but does not include classroom
13 teachers, principals and assistant principals subject to the
14 evaluation processes established pursuant to section two, article
15 three-c of this chapter.

16 (d) In developing the professional personnel performance
17 evaluation system, and amendments thereto, the state board shall
18 consult with the Center for Professional Development created in
19 article three-a of this chapter. The center shall participate
20 actively with the state board in developing written standards for
21 evaluation which clearly specify satisfactory performance and
22 the criteria to be used to determine whether the performance of
23 each professional meets those standards.

24 (e) The performance evaluation system shall contain, but not
25 be limited to, the following information:

- 26 (1) The professional personnel positions to be evaluated;
- 27 (2) The frequency and duration of the evaluations, which
28 shall be of such frequency and duration as to insure the
29 collection of a sufficient amount of data from which reliable
30 conclusions and findings may be drawn, but at least annually;
- 31 (3) The evaluation shall serve the following purposes:
- 32 (A) Serve as a basis for the improvement of the performance
33 of the personnel in their assigned duties;
- 34 (B) Provide an indicator of satisfactory performance for
35 individual professionals;
- 36 (C) Serve as documentation for a dismissal on the grounds
37 of unsatisfactory performance; and
- 38 (D) Serve as a basis for programs to increase the
39 professional growth and development of professional personnel;
- 40 (4) The standards for satisfactory performance for
41 professional personnel and the criteria to be used to determine
42 whether the performance of each professional meets those
43 standards and other criteria for evaluation for each professional
44 position evaluated. Professional personnel, as appropriate, shall
45 demonstrate competency in the knowledge and implementation
46 of the technology standards adopted by the state board. If a
47 professional fails to demonstrate competency in the knowledge
48 and implementation of these standards, he or she will be subject
49 to an improvement plan to correct the deficiencies; and
- 50 (5) Provisions for a written improvement plan, which shall
51 be specific as to what improvements, if any, are needed in the
52 performance of the professional and shall clearly set forth
53 recommendations for improvements, including recommendations

54 for additional education and training during the professional's
55 recertification or license renewal process.

56 (f) A professional whose performance is considered to be
57 unsatisfactory shall be given notice of deficiencies. A
58 remediation plan to correct deficiencies shall be developed by
59 the employing county board and the professional. The
60 professional shall be given a reasonable period of time for
61 remediation of the deficiencies and shall receive a statement of
62 the resources and assistance available for the purposes of
63 correcting the deficiencies.

64 (g) No person may evaluate professional personnel for the
65 purposes of this section or professional educator for the purposes
66 of section two, article three-c of this chapter unless the person
67 has an administrative certificate issued by the state
68 superintendent and has successfully completed education and
69 training in evaluation skills through the center for professional
70 development, or equivalent education training approved by the
71 state board, which will enable the person to make fair,
72 professional, and credible evaluations of the personnel whom the
73 person is responsible for evaluating. After July 1, 1994, no
74 person may be issued an administrative certificate or have an
75 administrative certificate renewed unless the state board
76 determines that the person has successfully completed education
77 and training in evaluation skills through the center for
78 professional development or equivalent education and training
79 approved by the state board.

80 (h) Any professional whose performance evaluation includes
81 a written improvement plan shall be given an opportunity to
82 improve his or her performance through the implementation of
83 the plan. If the next performance evaluation shows that the
84 professional is now performing satisfactorily, no further action
85 may be taken concerning the original performance evaluation. If
86 the evaluation shows that the professional is still not performing

87 satisfactorily, the evaluator either shall make additional
88 recommendations for improvement or may recommend the
89 dismissal of the professional in accordance with the provisions
90 of section eight of this article.

91 (i) This subsection applies to all classroom teachers
92 irrespective of the process under which they are evaluated.

93 (1) Lesson plans are intended to serve as a daily guide for
94 teachers and substitutes for the orderly presentation of the
95 curriculum. Lesson plans may not be used as a substitute for
96 observations by an administrator in the performance evaluation
97 process. A classroom teacher, as defined in section one, article
98 one of this chapter, may not be required to post his or her lesson
99 plans on the Internet or otherwise make them available to
100 students and parents or to include in his or her lesson plans any
101 of the following:

102 (A) Teach and reteach strategies;

103 (B) Write to learn activities;

104 (C) Cultural diversity;

105 (D) Color coding; or

106 (E) Any other similar items which are not required to serve
107 as a guide to the teacher or substitute for daily instruction;

108 (2) The Legislature finds that classroom teachers must be
109 free of unnecessary paper work so that they can focus their time
110 on instruction. Therefore, classroom teachers may not be
111 required to keep records or logs of routine contacts with parents
112 or guardians;

113 (3) Nothing in this subsection may be construed to prohibit
114 classroom teachers from voluntarily posting material on the
115 Internet; and

116 (4) Nothing in article three-c of this chapter may be
 117 construed to negate the provisions of this subsection.

CHAPTER 48

**(Com. Sub. for H. B. 4316 - By Delegates M. Poling,
 Perry, Moye, Tomblin, Young, Barrett, Barill, Walker,
 Pasdon, Pethel and Fragale)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-5h, relating to creating the student data accessibility, transparency and accountability act; providing definitions; state, district and school responsibilities for data inventory; providing for data governance manager and responsibilities; establishing parental rights to information and providing for policies on security and access; requiring state board rules; and establishing effect on existing data.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-2-5h, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5h. Student Data Accessibility, Transparency and Accountability Act.

- 1 (a) *Title.* — This section shall be known and may be cited as
- 2 the “Student Data Accessibility, Transparency and Account-
- 3 ability Act.”

4 (b) *Definitions.* — As used in this section, the following
5 words have the meanings ascribed to them unless the context
6 clearly implies a different meaning:

7 (1) “Board” means the West Virginia Board of Education;

8 (2) “Department” means the West Virginia Department of
9 Education;

10 (3) “Student Data system” means the West Virginia
11 Department of Education statewide longitudinal data system;

12 (4) “Aggregate data” means data collected that is reported at
13 the group, cohort, or institutional level with a data set of
14 sufficient size that no information for an individual parent or
15 student is identifiable;

16 (5) “Redacted data” means a student dataset in which parent
17 and student identifying information has been removed;

18 (6) “State-assigned student identifier” means the unique
19 student identifier assigned by the state to each student that shall
20 not be or include the Social Security number of a student in
21 whole or in part;

22 (7) “Student data” means data collected or reported at the
23 individual student level included in a student’s educational
24 record;

25 (8) “Provisional student data” means new student data
26 proposed for inclusion in the student data system;

27 (9) “School district” means a county board of education, the
28 West Virginia Schools for the Deaf and Blind and the West
29 Virginia Department of Education with respect to the education
30 programs under its jurisdiction that are not in the public schools;

31 (10) “Directory information” means the following individual
32 student information that is subject to disclosure for school-
33 related purposes only: Student name, address, telephone number,
34 date and place of birth, major field of study, participation in
35 officially recognized activities and sports, weight and height of
36 members of athletic teams, dates of attendance, indication of
37 “graduate” or “non-graduate,” degrees and awards receives, most
38 recent previous school attended, and photograph;

39 (11) “Confidential student information” means data relating
40 to a person’s Social Security number, or other identification
41 number issued by a state or federal agency, except for the state-
42 assigned student identifier as defined in this section, religious
43 affiliation, whether the person or a member of their household
44 owns or possesses a firearm, whether the person or their family
45 are or were recipients of financial assistance from a state or
46 federal agency, medical, psychological or behavioral diagnoses,
47 criminal history, criminal history of parents, siblings or any
48 members of the person’s household, vehicle registration number,
49 driver’s license number, biometric information, handwriting
50 sample, credit card numbers, consumer credit history, credit
51 score, or genetic information;

52 (12) “Affective computing” means human-computer
53 interaction in which the device has the ability to detect and
54 appropriately respond to its user’s emotions and other stimuli;
55 and

56 (13) “Fair Information Practice Principles” are United States
57 Federal Trade Commission guidelines that represent widely
58 accepted concepts concerning fair information practice in an
59 electronic marketplace.

60 (c) *Data Inventory – State Responsibilities.* — The
61 Department of Education shall:

62 (1) Create, publish, and make publicly available a data
63 inventory and dictionary or index of data elements with
64 definitions of individual student data fields in the student data
65 system to include, but not be limited to:

66 (A) Any individual student data required to be reported by
67 state and federal education mandates;

68 (B) Any individual student data which has been proposed in
69 accordance with paragraph (A), subdivision (7) of this
70 subsection for inclusion in the student data system with a
71 statement regarding the purpose or reason and legal authority for
72 the proposed collection; and

73 (C) Any individual student data that the department collects
74 or maintains with no current identified purpose;

75 (2) Develop, publish, and make publicly available policies
76 and procedures to comply with all relevant state and federal
77 privacy laws and policies, including, but not limited to, the
78 Federal Family Educational Rights and Privacy Act (FERPA)
79 and other relevant privacy laws and policies. The policies and
80 procedures specifically shall include, but are not limited to:

81 (A) Access to student and redacted data in the statewide
82 longitudinal data system shall be restricted to:

83 (i) The authorized staff of the department and the contractors
84 working on behalf of the department who require access to
85 perform their assigned duties as required by law and defined by
86 interagency data-sharing agreements;

87 (ii) District administrators, teachers and school personnel
88 who require access to perform their assigned duties;

89 (iii) Students and their parents; and

90 (iv) The authorized staff of other West Virginia state
91 agencies as required by law and defined by interagency
92 data-sharing agreements;

93 (B) Ensure that any inter-agency data-sharing agreements
94 shall be posted on the department website, and parents shall be
95 notified of their right to opt out of sharing the child's data
96 pursuant to agreements.

97 (C) Use only aggregate data in public reports or in response
98 to record requests in accordance with this section;

99 (D) Unless otherwise prohibited by law, develop criteria for
100 the approval of research and data requests from state and local
101 agencies, the Legislature, researchers working on behalf of the
102 department, and the public. Student data maintained by the
103 department shall remain redacted; and

104 (E) Notification to students and parents regarding student
105 privacy rights under federal and state law;

106 (3) Unless otherwise provided by law, the department shall
107 not transfer student or redacted data that is confidential under
108 this section to any federal, state or local agency or other
109 organization, public or private, with the following exceptions:

110 (A) A student transfers out-of-state or a school or school
111 district seeks help with locating an out-of-state transfer;

112 (B) A student leaves the state to attend an out-of-state
113 institution of higher education or training program;

114 (C) A student registers for or takes a national or multistate
115 assessment;

116 (D) A student voluntarily participates in a program for which
117 a data transfer is a condition or requirement of participation;

118 (E) The department enters into a contract that governs
119 databases, assessments, special education or instructional
120 supports with an in-state or out-of-state contractor for the
121 purposes of state level reporting;

122 (F) A student is classified as “migrant” for federal reporting
123 purposes; or

124 (G) A federal agency is performing a compliance review.

125 (4) Develop a detailed data security plan that includes:

126 (A) Guidelines for the student data system and individual
127 student data including guidelines for authentication of authorized
128 access;

129 (B) Privacy compliance standards;

130 (C) Privacy and security audits;

131 (D) Breach planning, notification and procedures;

132 (E) Data retention and disposition policies; and

133 (F) Data security policies including electronic, physical, and
134 administrative safeguards, such as data encryption and training
135 of employees;

136 (5) Ensure routine and ongoing compliance by the
137 department with FERPA, other relevant privacy laws and
138 policies, and the privacy and security policies and procedures
139 developed under the authority of this act, including the
140 performance of compliance audits;

141 (6) Ensure that any contracts that govern databases,
142 assessments or instructional supports that include student or
143 redacted data and are outsourced to private vendors include

144 express provisions that safeguard privacy and security and
145 include penalties for noncompliance; and

146 (7) Notify the Governor and the Legislature annually of the
147 following:

148 (A) New student data proposed for inclusion in the state
149 student data system. Any proposal by the Department of
150 Education to collect new student data must include a statement
151 regarding the purpose or reason and legal authority for the
152 proposed collection. The proposal shall be announced to the
153 general public for a review and comment period of at least sixty
154 days and approved by the state board before it becomes
155 effective. Any new student data collection approved by the state
156 board is a provisional requirement for a period sufficient to
157 allow schools and school districts the opportunity to meet the
158 new requirement;

159 (B) Changes to existing data collections required for any
160 reason, including changes to federal reporting requirements
161 made by the U.S. Department of Education and a statement of
162 the reasons the changes were necessary;

163 (C) An explanation of any exceptions granted by the state
164 board in the past year regarding the release or out-of-state
165 transfer of student or redacted data; and

166 (D) The results of any and all privacy compliance and
167 security audits completed in the past year. Notifications
168 regarding privacy compliance and security audits shall not
169 include any information that would itself pose a security threat
170 to the state or local student information systems or to the secure
171 transmission of data between state and local systems by exposing
172 vulnerabilities.

173 (8) Notify the Governor upon the suspicion of a data security
174 breach or confirmed breach and upon regular intervals as the

175 breach is being managed. The parents shall be notified as soon
176 as possible after the suspected or confirmed breach.

177 (9) Prohibit the collection of confidential student
178 information as defined in subdivision ten of subsection (b) of
179 this section.

180 (d) *Data Inventory – District Responsibilities.* — A school
181 district shall not report to the state the following individual
182 student data:

183 (1) Juvenile delinquency records;

184 (2) Criminal records;

185 (3) Medical and health records; and

186 (4) Student biometric information.

187 (e) *Data Inventory – School Responsibilities.* — Schools
188 shall not collect the following individual student data:

189 (1) Political affiliation and beliefs;

190 (2) Religion and religious beliefs and affiliations;

191 (3) Any data collected through affective computing;

192 (4) Any data concerning the sexual orientation or beliefs
193 about sexual orientation of the student or any student's family
194 member; and

195 (5) Any data concerning firearm's ownership by any
196 member of a student's family.

197 (f) *Data Governance Manager.* — The state superintendent
198 shall appoint a data governance manager, who shall report to and
199 be under the general supervision of the state superintendent. The

200 data governance manager shall have primary responsibility for
201 privacy policy, including:

202 (1) Assuring that the use of technologies sustain, and do not
203 erode, privacy protections relating to the use, collection, and
204 disclosure of student data;

205 (2) Assuring that student data contained in the student data
206 system is handled in full compliance with the Student Data
207 Accessibility, Transparency, and Accountability Act, FERPA,
208 and other state and federal privacy laws;

209 (3) Evaluating legislative and regulatory proposals involving
210 collection, use, and disclosure of student data by the Department
211 of Education;

212 (4) Conducting a privacy impact assessment on proposed
213 rules of the state board and department in general and on the
214 privacy of student data, including the type of personal
215 information collected and the number of students affected;

216 (5) Coordinating with the general counsel of the state board
217 and department, other legal entities, and organization officers to
218 ensure that programs, policies, and procedures involving civil
219 rights, civil liberties, and privacy considerations are addressed
220 in an integrated and comprehensive manner;

221 (6) Preparing a report to the Legislature on an annual basis
222 on activities of the department that affect privacy, including
223 complaints of privacy violations, internal controls, and other
224 matters;

225 (7) Establishing department-wide policies necessary for
226 implementing Fair Information Practice Principles to enhance
227 privacy protections;

228 (8) Working with the Office of Data Management and
229 Analysis, the general counsel, and other officials in engaging

230 with stakeholders about the quality, usefulness, openness, and
231 privacy of data;

232 (9) Establishing and operating a department-wide Privacy
233 Incident Response Program to ensure that incidents are properly
234 reported, investigated and mitigated, as appropriate;

235 (10) Establishing and operating a process for parents to file
236 complaints of privacy violations;

237 (11) Establishing and operating a process to collect and
238 respond to complaints of privacy violations and provides redress,
239 as appropriate; and

240 (12) Providing training, education and outreach to build a
241 culture of privacy across the department and transparency to the
242 public.

243 The data governance manager shall have access to all
244 records, reports, audits, reviews, documents, papers,
245 recommendations, and other materials available to the
246 department that relate to programs and operations with respect
247 to his or her responsibilities under this section and shall make
248 investigations and reports relating to the administration of the
249 programs and operations of the department as are necessary or
250 desirable.

251 (g) *Parental rights regarding child's information and*
252 *education record.* — Parents have the right to inspect and review
253 their child's education record maintained by the school and to
254 request student data specific to their child's educational record.
255 School districts must provide parents or guardians with a copy
256 of their child's educational record upon request. Whenever
257 possible, an electronic copy of the educational record must be
258 provided if requested and the identity of the person requesting
259 the information is verified as the parent or guardian.

260 The state board shall develop guidance for school district
261 policies that:

262 (1) Annually notify parents of their right to request student
263 information;

264 (2) Ensure security when providing student data to parents;

265 (3) Ensure student data is provided only to the authorized
266 individuals;

267 (4) Detail the timeframe within which record requests must
268 be provided;

269 (5) Ensure that school districts have a plan to allow parents
270 to view and access data specific to their child's educational
271 record and that any electronic access provided is restricted to
272 eligible parties;

273 (6) Ensure compliance in the collection, use and disclosure
274 of directory information and providing parents or guardians with
275 a form to limit the information concerning their child in
276 directory and subject to release; and

277 (7) Informing parents of their rights and the process for
278 filing complaints of privacy violations.

279 (h) *State Board Rules.* — The state board shall adopt rules
280 necessary to implement the provisions of the Student Data
281 Accessibility, Transparency, and Accountability Act.

282 (i) *Effect on Existing Data.* — Upon the effective date of this
283 section, any existing student data collected by the Department of
284 Education shall not be considered a new student data collection
285 under this section.

CHAPTER 49

**(Com. Sub. for H. B. 4270 - By Delegates Westfall, Boggs,
Perry, M. Poling, Espinosa, Raines, Ashley, Hamrick,
Tomblin, Cadle and Pasdon)**

[Passed March 6, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 20, 2014.]

AN ACT to amend and reenact §18-2-16 of the Code of West Virginia, 1931, as amended, relating to salaries of service employees of the state camp and conference center known as Cedar Lakes Conference Center; providing that the minimum salary requirements for school service personnel do not apply to service employees who are initially employed to provide services at the camp and conference center on or after July 1, 2014.

Be it enacted by the Legislature of West Virginia:

That §18-2-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-16. Establishment and operation of state camp and conference center; rental thereof; expenditures; gifts and donations; county court may erect and equip buildings.

1 For the purpose of developing competent leadership,
2 developing character, training for useful citizenship, fostering
3 patriotism, and of providing and encouraging the development
4 of organized recreational activities for Future Farmers of
5 America and Future Homemakers of America members, and

6 other youth and adult groups, a camp and conference center is
7 hereby established.

8 The West Virginia Board of Education is hereby authorized
9 to secure a site for the camp and conference center at some
10 suitable place and provide the necessary buildings and
11 equipment therefor.

12 The camp and conference center shall be operated by the
13 division of vocational education of the West Virginia Board of
14 Education. The camp and conference center may be rented for
15 educational purposes only and the rent received therefor shall be
16 deposited in the State Treasury and paid out on requisition of the
17 division of vocational education of the West Virginia Board of
18 Education for the maintenance and operation of the camp and
19 conference center.

20 The minimum salary requirements in sections eight-a and
21 eighteen, article four, chapter eighteen-a of this code do not
22 apply to service employees who are initially employed on or
23 after July 1, 2014 by the division of vocational education to
24 provide services at the camp and conference center.

25 Any appropriations now or hereafter made by the Legislature
26 to carry out the provisions and purposes of this section shall be
27 expended through the West Virginia Board of Education.

28 The West Virginia Board of Education may receive and use
29 such gifts and donations of money, land, buildings, materials,
30 equipment, supplies and labor, either from public or private
31 sources, as may be offered unconditionally or under such
32 conditions as in the judgment of the West Virginia Board of
33 Education are proper and consistent with the provisions of this
34 section.

35 All the money received as gifts and donations, by the West
36 Virginia Board of Education shall be deposited in the State

37 Treasury to be used by the said Board of Education in
38 establishing and maintaining the aforesaid camp and conference
39 center. A report of all gifts and donations offered and accepted,
40 together with the names of the donors and the amounts
41 contributed by each and all disbursements therefrom shall be
42 submitted annually to the Governor of the state by the West
43 Virginia Board of Education.

44 The county commission of any county may appropriate and
45 expend money from the general county fund, or from any special
46 fund available for such purpose, to erect and equip a cottage or
47 county building on the camp and conference center property.

CHAPTER 50

**(H. B. 4618 - By Delegates Perry, Young, Tomblin,
Fragale, Williams, Walker, Espinosa, Cooper, Moye,
Sumner and D. Evans)**

[Passed March 5, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended, relating to establishing transformative system of support for early literacy; making legislative findings; requiring state board rule; minimum provisions of rule; eliminating critical skills instructional support programs for third and eighth graders; and modifying critical skills program framework to apply only to early literacy program.

Be it enacted by the Legislature of West Virginia:

That §18-2E-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**§18-2E-10. Transformative system of support for early literacy.**

1 (a) The Legislature finds that:

2 (1) In the early learning years, ensuring that each student
3 masters the content and skills needed for mastery at the next
4 grade level is critically important for student success;

5 (2) Students who do not demonstrate grade-level proficiency
6 in reading by the end of third grade become increasingly less
7 likely to succeed at each successive grade level and often drop
8 out of school prior to graduation;

9 (3) State board policy requires every school to establish a
10 process for ensuring the developmental and academic progress
11 of all students. This process is to be coordinated by a school
12 student assistance team that reviews student developmental and
13 academic needs that have persisted despite being addressed
14 through instruction, intervention, and as applicable, supports for
15 personalized learning. Ensuring the developmental and academic
16 success of all students requires every school to implement, in an
17 equitable manner, programs during and after the instructional
18 day at the appropriate instructional levels that contribute to the
19 success of students; and

20 (4) To ensure that all students read proficiently by the end of
21 third grade, a statewide comprehensive approach to early literacy
22 is required. This approach shall focus on supports during the
23 early learning years which include schools and engaged
24 communities mobilized to remove barriers, expand
25 opportunities, and assist parents in fulfilling their roles and
26 responsibilities to serve as full partners in the success of their
27 children.

28 (b) The state board shall, in accordance with the provisions
29 of article three-b, chapter twenty-nine-a of this code, promulgate

30 legislative rules as necessary to effectuate the provisions of this
31 section. The rules shall provide for at least the following:

32 (1) Development of a comprehensive, systemic approach to
33 close the reading achievement gap by third grade, which targets
34 school readiness, the attendance gap, summer learning loss and
35 a transformative intervention framework for student and learning
36 supports;

37 (2) Ensuring all West Virginia children have access to high
38 quality early learning experiences that focus on healthy learners
39 as part of the school readiness model, resulting in increased
40 populations of children on target for healthy development prior
41 to entering first grade;

42 (3) Closing the attendance gap to certify West Virginia
43 children attend school regularly and limit chronic absenteeism
44 in the early grades;

45 (4) Assisting county boards in establishing and operating
46 targeted, sustained extended day and extended year reading
47 programs to ensure grade level proficiency and battle summer
48 learning loss;

49 (5) Maximizing family engagement to result in the
50 development of a culture of literacy from birth through third
51 grade;

52 (6) Supporting high quality schools and a workforce
53 prepared to address early literacy, identification of interventions,
54 and implementation of a system of intervention for children not
55 reaching grade level proficiency;

56 (7) Ensuring the employment of qualified teachers and
57 service personnel in accordance with the provisions of section
58 thirty-nine, article five of this chapter and section seven-c, article
59 four, chapter eighteen-a of this code to provide instruction to
60 students enrolled in early literacy support programs;

61 (8) Creating a formula or grant-based program for the
62 distribution of funds appropriated specifically for the purposes
63 of this section or otherwise available for the support of a
64 targeted, comprehensive system of support for early literacy;

65 (9) Providing support for transportation and healthy foods
66 for students required to attend after-school and extended year
67 early literacy instructional support programs and supervision at
68 the school that accommodates the typical work schedules of
69 parents; and

70 (10) Receiving from county boards any applications and
71 annual reports required by rule of the state board.

72 (c) A student in grades kindergarten through three who is
73 recommended by the student assistance team or the student's
74 classroom teacher for additional assistance in one or more of the
75 key standards of English Language Arts, including reading,
76 speaking and listening, writing or language may be required to
77 attend an extended year early literacy instructional support
78 program as a condition for promotion if:

79 (1) The student has been provided additional academic help
80 through an in-school or after-school early literacy instructional
81 support program and, prior to the end of the school year, the
82 student assistance team or the student's classroom teacher
83 recommends that further additional academic help is needed for
84 the student to be successful at the next grade level; and

85 (2) The county board has established an early literacy
86 instructional support program during the extended year for the
87 student's grade level.

88 (d) County boards shall provide high-quality educational
89 facilities, equipment and services to support early literacy
90 instructional support programs established pursuant to this
91 section. Extended year programs may be provided at a central

92 location for kindergarten through third graders who qualify for
93 the program.

94 (e) This section may not be construed to prohibit a classroom
95 teacher from recommending the grade level retention of a
96 student based upon the student's lack of mastery of the subject
97 matter and preparation for the subject matter at the next grade
98 level.

99 (f) This section may not be construed to affect the
100 individualized education plans of exceptional students.

101 (g) This section may not be construed to limit the authority
102 of the county board to establish an extended year program in
103 accordance with section thirty-nine, article five of this chapter.
104 County boards may not charge tuition for enrollment in early
105 literacy instructional support programs established pursuant to
106 this section.

107 (h) Each county board shall prepare to implement the
108 provisions of this section and the provisions of the state board
109 rule required by subsection (b) of this section. The preparations
110 shall at least include planning, ensuring a process for ensuring
111 the developmental and academic progress of all students through
112 the auspices of student assistance teams as currently required by
113 state board policy and performing a needs assessment to
114 determine the potential capacity requirements for the system of
115 support for early learners.

116 (i) The state board shall provide a report describing the
117 proposed implementation of the transformative system of
118 support for early literacy to the Legislative Oversight
119 Commission on Education Accountability on or before July 1,
120 2014.

121 (j) The state board shall provide a comprehensive report
122 regarding the status of the transformative system of support for

123 early literacy to the Legislative Oversight Commission on
124 Education Accountability, the Joint Committee on Government
125 and Finance, and the Governor on November 1, 2014, and
126 annually on November 1 on each year thereafter. The report shall
127 address, at a minimum, the progress of the program throughout
128 the state, its effect on student achievement and the sources of the
129 funding both available to and used by the program.

130 (k) The provisions of this section are subject to the
131 availability of funds from legislative appropriation or other
132 sources specifically designated for the purposes of this section.
133 If a county board determines that adequate funds are not
134 available for full implementation of a transformative system of
135 support for early literacy in the county, the county board may
136 implement its program in phases by first establishing early
137 literacy instructional support programs in the early readiness
138 grades (Kindergarten), then the primary grades (Grades 1-2), and
139 then establishing an early literacy instructional support program
140 for the third grade once the county board determines that
141 adequate funds are available.



CHAPTER 51

**(H. B. 4619 - By Delegates M. Poling, Perry, Pethtel,
Lawrence, Barrett, Campbell, Rowan, Pasdon,
Hamrick, Westfall and Ambler)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend and reenact §18-5B-3 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §18-5B-13, all relating to School Innovation Zones Act; providing limited priority for

limited years for certain entrepreneurship education innovation zones; authorizing innovation school districts; making legislative findings and providing intent and purpose of section; school system eligibility and application categories; providing for application process, review, content and periods; innovation school district plan purpose and content; plan development, approval and submission to state board; state board designation of innovation school districts; affect of designation and process for waiver of statutes, policies, rules and interpretations; limitation on waivers; revision and extension of plans; revocation of designation; affect of plan expiration on innovations; requiring state board rule; and annual review.

Be it enacted by the Legislature of West Virginia:

That §18-5B-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be further amended by adding thereto a new section, designated §18-5B-13, all to read as follows:

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

§18-5B-3. School innovation zones; application for designation; state board rule.

1 (a) A school, a group of schools, a subdivision or department
2 of a group of schools, or a subdivision or department of a school
3 may be designated as an innovation zone in accordance with this
4 article.

5 (b) The state board shall promulgate a rule, including an
6 emergency rule if necessary, in accordance with article three-b,
7 chapter twenty-nine-a of this code to implement the provisions
8 of this article. The rule shall include provisions for at least the
9 following:

10 (1) A process for a school, a group of schools, a subdivision
11 or department of a group of schools or a subdivision or

12 department of a school to apply for designation as an innovation
13 zone that encompasses at least the following:

14 (A) The manner, time and process for the submission of an
15 innovation zone application;

16 (B) The contents of the application, which must include a
17 general description of the innovations the school or schools seek
18 to institute and an estimation of the employees who may be
19 affected by the implementation of the innovations; and

20 (C) Factors to be considered by the state board when
21 evaluating an application, which shall include, but are not
22 limited to, the following factors:

23 (i) The level of staff commitment to apply for designation as
24 an innovation zone as determined by a vote by secret ballot at a
25 special meeting of employees eligible to vote on the plan, as
26 provided in section six of this article;

27 (ii) Support from parents, students, the county board of
28 education, the local school improvement council and school
29 business partners; and

30 (iii) The potential for an applicant to be successful as an
31 innovation zone; and

32 (2) Standards for the state board to review applications for
33 designation as innovation zones and to make determinations on
34 the designation of innovation zones.

35 (c) The state board shall review innovation zone applications
36 in accordance with the standards adopted by the board and shall
37 determine whether to designate the applicant as an innovation
38 zone. The state board shall notify an applicant of the board's
39 determination within sixty days of receipt of an innovation zone
40 application.

41 When initially designating innovation zones after the
42 enactment of this article by the first extraordinary session of the
43 2009 Legislature, the state board shall consider applicants for
44 designation in the following order: (1) A school and groups of
45 schools; (2) a group of schools seeking designation across the
46 same subdivision or department of the schools; and (3) a school
47 seeking designation of a subdivision or a department.

48 (d) When designating innovation zones under these
49 provisions following the amendment and reenactment of this
50 section by the Legislature at its regular session 2014, and for
51 each of the four succeeding school years, the state board shall
52 establish a priority for applications that include the establishment
53 of entrepreneurship education programs as a curricular offering
54 for students. To qualify under this priority, the program strategy
55 must include the active involvement of one or more partners
56 from the business community in program delivery. Nothing in
57 this subsection requires the state board to designate all applicants
58 that include the establishment of entrepreneurship education
59 programs as innovation zones, or to exclude other qualified
60 applicants for innovations in other areas from designation.

**§18-5B-13. Innovation School District Act; legislative findings,
intent and purpose; eligibility; application;
innovation plan and plan approval; designation;
waiver of statutes, policies, rules or interpretations;
exceptions; progress reviews and annual reports;
state board rule.**

1 (a) *Legislative findings:*

2 (1) High school completion is an essential milestone for all
3 West Virginia students and impacts the future success of the
4 individual, community and state as well as providing the
5 pathway to and appreciation for life-long learning endeavors;

6 (2) There are significant correlations between educational
7 attainment and labor market outcomes, greater labor force
8 participation rate, increased employment rates, improved health,
9 and decreased levels of poverty and crime. The negative impact
10 on these linkages is most evident in the absence of high school
11 completion;

12 (3) West Virginia as a state must improve in areas of student
13 achievement, graduation rate, attendance, the college going rate
14 and other indicators of academic success in public schools;

15 (4) Research identifies a number of effective strategies for
16 engaging students that have the most positive impact on
17 improving student success and high school graduation. Some of
18 these strategies are school-community collaboration, safe
19 learning environments, family engagement, early literacy
20 development, mentoring and tutoring services, service learning
21 opportunities, alternative and nontraditional schooling, offering
22 multiple pathways and settings for attaining high school
23 diplomas, after-school opportunities, individualized instruction
24 and career and technical education;

25 (5) Among the major issues raised by the Efficiency Audit
26 of West Virginia's Primary and Secondary Education System
27 conducted by Public Works, LLC, is a description of West
28 Virginia's system of schools as heavily regulated. The report
29 expresses the advantages of more local autonomy to better meet
30 the needs of students, elevate their aspirations, and prepare them
31 for post-secondary education and careers. Among its general
32 conclusions is the need to drive more educational decision-
33 making to the level closest to the students, to the classroom and
34 building level - allowing principals to lead and teachers to
35 deliver the most effective curriculum for their students - and then
36 holding them accountable for student success;

37 (6) The Goals for Education, Vision 2020: An Education
38 Blueprint for Two Thousand Twenty include policy-oriented

39 objectives for restoring the autonomy, authority, flexibility, and
40 capacity of local schools and county boards to improve student
41 learning to meet or exceed the expectations established by the
42 state board and Legislature;

43 (7) Allowing exceptions from certain statutes, policies, rules
44 and interpretations through the creation of innovation school
45 districts will restore the autonomy, authority, flexibility, and
46 capacity of local schools and county boards to enable greater
47 local autonomy and encourage innovation over the important
48 factors that impact student achievement and the delivery of
49 educational services to improve student learning; and

50 (8) When educators, parents, elected officials, business
51 leaders, faith-based leaders, human service personnel, judicial
52 personnel and civic leaders collectively work together, they are
53 often able to find innovative solutions to address school and
54 community problems and implement a variety of innovative
55 improvements that increase student engagement, develop more
56 flexible schedules, enhance student and teacher ownership of the
57 learning process and increase student achievement.

58 (b) *Legislative intent and purpose of section:*

59 In light of the foregoing findings, it is the intent of the
60 Legislature through this section to create a special category of
61 innovation zones entitled “Innovation School Districts” to
62 provide an additional tool for school systems in collaboration
63 with community and business partners to plan and implement
64 new approaches to improve the performance and progress of the
65 students, schools and school system. This section is intended to
66 establish a process that includes:

67 (1) Broad participation and collaboration in the
68 establishment of an innovation school district plan that includes
69 approaches to build the capacity of the district to improve the

70 performance and progress of its students, schools and school
71 system; and

72 (2) Provides multiple opportunities over a period of five
73 years for a school system designated as an innovation school
74 district to seek and receive exceptions to certain statutes,
75 policies, rules and interpretations applicable throughout the
76 county or at certain schools within the county as needed to best
77 meet the needs of its students as the system moves forward with
78 its partners toward fulfillment of its innovation school district
79 plan.

80 (c) *School System Eligibility:*

81 All county boards are eligible to apply for designation as an
82 innovation school district: *Provided*, That a district that has
83 expended funds or incurred obligations in violation of section
84 twenty-six, article eight, chapter eleven of this code is not
85 eligible to apply for designation as an innovation school district,
86 unless otherwise determined by the state board. The applications
87 shall be taken in four categories: Sparse Density County; Low
88 Density County; Medium Density County; and High Density
89 County, as those terms are defined in section two, article nine-a
90 of this chapter. The state board is authorized to designate no
91 more than one county from each category as an innovation
92 school district beginning July 1, 2015: *Provided*, That the State
93 Board, after July 1, 2016, may designate one additional county
94 from each category as an innovation school district as long as the
95 number of counties designated at any one time does not exceed
96 two counties from each category as innovation school districts,
97 subject to other considerations included herein. The designation
98 of counties as innovation school districts shall be on a
99 competitive basis.

100 (d) *Application for designation as Innovation School*
101 *District:*

102 The rule promulgated by the state board to implement this
103 section shall include an application and approval process for
104 innovation school district plans that includes, but is not limited
105 to, the following provisions:

106 (1) The manner, time and process for the submission of
107 innovation school district applications. The initial application
108 deadline may not be prior to January 2015. If after consideration
109 of the applications submitted to it during an application period,
110 the state board in its sole discretion does not designate the
111 allotted number of school systems in each density category as
112 innovation school districts, the state board may establish another
113 application period to permit county boards in a density category
114 not filled to reapply. In addition, at any time the number of
115 designated innovation school districts in a density category is
116 less than the maximum number allowed by subsection (c) of this
117 section due to the revocation or expiration of a designation, the
118 state board may establish an application period and may select
119 on a competitive basis new school systems to achieve the
120 maximum number allowed by subsection (c) of this section per
121 density category;

122 (2) The contents of the application, which must include:

123 (A) The innovation school district plan approved in
124 accordance with subsection (f) of this section; and

125 (B) A general description of the innovations the school
126 district seeks to institute as proposed in its innovation school
127 district plan;

128 (3) Factors to be considered by the state board when
129 evaluating an application, which shall include, but are not
130 limited to, the following factors:

131 (A) Support from teachers, staff, parents, students, the
132 county board of education, the local school improvement council
133 and school business partners; and

134 (B) The potential for an applicant to be successful in raising
135 student achievement as an innovation school district;

136 (4) Standards for the state board to review applications for
137 designation as an innovation school district and to make
138 determinations on the designation of a school system as an
139 innovation school district; and

140 (5) An innovation zone application review committee and
141 recommendation process which shall be the same committee and
142 process as used for all other innovation zones under this article.

143 (e) *Innovation School District Plan:*

144 The innovation school district plan is intended to serve as the
145 basis for the innovative activities of the school system and to
146 provide a vision for the school improvement goals it will work
147 to accomplish in collaboration with its school and community
148 partners. The plan is not intended as a limit on the normal school
149 improvement activities that all school systems are expected to
150 pursue, nor is the plan intended as a restriction on the ability of
151 the school system or its schools to pursue other innovative
152 strategies in accordance with the other provisions of this article.
153 The innovation school district plan may include, but are not
154 limited to, the following proposals:

155 (1) Methods for providing schools and communities with
156 opportunities for greater collaboration to plan and implement
157 systemic approaches that include evidence-based solutions for
158 increasing graduation rates, increasing achievement and
159 educational outcomes and reducing the number of dropouts;

160 (2) Innovative approaches to revitalize vocational and
161 technical education, an essential mission of county boards;

162 (3) Increased collaborative site-based decision-making
163 powers over the budgeting for and spending on programs and
164 services for students;

165 (4) Increased collaborative site-based decision-making
166 powers over teacher recruitment;

167 (5) Improved site-based mentoring, collaboration and
168 support for strengthening the professional practices of new and
169 emerging teachers, including recognizing and supporting school-
170 based teacher leaders that perform these duties;

171 (6) Allowing a collaborative process which ensures
172 accountability and transparency to all stakeholders, provides
173 information and additional measures of the effects of specific
174 innovations upon which the success of the plan may be judged,
175 and documents student, school and school system success;

176 (7) Allows input and demonstrative buy-in from education
177 personnel regarding appropriate professional development,
178 supports, resources and working conditions.

179 (8) Allowing a collaborative site-based process to reduce
180 certain requirements to allow staff to meet the school's mission;

181 (9) Allowing, through a collaborative site-based process,
182 flexibility to the alternative teacher certification programs;

183 (10) Utilizing virtual school courses aligned with the
184 Southern Regional Education Board's Standards for Quality
185 Online Courses;

186 (11) Providing for greater autonomy for county board, and
187 through the board's innovation's, for local schools; and

188 (12) Other innovation zone plans approved under the
189 provisions of this article and being implemented in other schools
190 and school systems throughout the state.

191 The innovation school district plan shall include a general
192 description of the innovations the county school district seeks to

193 institute, a proposed time line for implementation and measures
194 for judging the success of the innovation school district plan.

195 (f) *Innovation School District Plan - District Level*
196 *Approval:*

197 Prior to submitting an innovation school district plan to the
198 state board, the county board shall:

199 (1) Form a broad based innovation school district
200 stakeholders committee which may include, but is not limited to,
201 educators, parents, elected officials, business leaders, faith-based
202 leaders, human service personnel, judicial personnel and civic
203 leaders, but at a minimum shall include the principals employed
204 within the county, the chairs of the faculty senates of each school
205 in the county, employee organization representatives, a school
206 service person from each work site and parent representatives.
207 The stakeholder committee shall compose a conceptual proposal
208 for the purpose of soliciting input on a variety of approaches that
209 may be undertaken within the county if designated as an
210 innovation school district and to guide development of an
211 innovation school district plan;

212 (2) Direct the county superintendent to hold a meeting of all
213 regularly employed school employees to provide them an
214 opportunity to examine and discuss the conceptual proposal. The
215 superintendent shall direct that a vote of all regularly employed
216 school employees in the county be conducted within fifteen days
217 of the meeting to determine the level of school employee support
218 for the conceptual proposal. The vote shall be by secret ballot
219 administered by the panels created in subsection (c), section six
220 of this article for each school and shall be administered in
221 accordance with that subsection. For the vote to be valid, ballots
222 must be cast by at least fifty percent of all regularly employed
223 school employees in the county. Before proceeding with the
224 succeeding subdivisions of this subsection, the conceptual

225 proposal must be approved by at least two-thirds ballots cast
226 voting to approve it. If not approved, the stakeholder committee
227 may revise the conceptual proposal and, subject to direction of
228 the county board, the superintendent shall repeat the steps set
229 forth in this subdivision for a revote;

230 (3) Make its conceptual proposal for an innovation school
231 district available to the public at least 20 days prior to the public
232 town hall meetings required under subdivision (4) of this
233 subsection. In order to comply with this public notice
234 requirement, the proposed plan shall be posted on the county
235 board's web site, as well as hard copies of the proposed plan
236 being made available at all county school sites and the county's
237 central office, for public viewing and copying;

238 (4) After the closure of the 20 day public review period,
239 conduct public town hall meetings in at least three schools in the
240 county, including at least one each at schools with separate
241 secondary, middle and elementary programmatic levels, or as
242 near as possible considering the county's facility infrastructure,
243 for the purpose of soliciting input from those in attendance on
244 the challenges affecting the quality of education in the county
245 and the potential strategies and priorities for addressing them;

246 (5) Direct the county superintendent to hold a meeting of the
247 innovation school district stakeholders committee following the
248 public town hall meetings for the purpose of reviewing the input
249 gathered at the meetings and developing an innovation school
250 district plan;

251 (6) Direct the county superintendent to hold a meeting of all
252 regularly employed school employees to provide them an
253 opportunity to examine and discuss the innovation school district
254 plan. The superintendent shall direct that a vote of all regularly
255 employed school employees in the county be conducted within
256 fifteen days of the meeting to determine the level of school

257 employee support for the innovation school district plan. The
258 vote shall be conducted as provided in subdivision (2) of this
259 subsection, except that for the vote to be valid, ballots must be
260 cast by at least sixty percent of all regularly employed school
261 employees in the county and the innovation school district plan
262 must be approved by at least two-thirds of the ballots cast voting
263 to approve it. If not approved, the stakeholder committee may
264 revise the plan and, subject to direction of the county board, the
265 superintendent shall repeat the steps set forth in this subdivision
266 for a revote; and

267 (7) The plan may then be submitted by the county
268 superintendent to the county board for a vote to submit the plan
269 to the state board. The authority of a county board to vote to
270 submit an innovation school district plan and the right to submit
271 the plan and be designated as an innovation school district, if
272 selected, in accordance with this section are not subject to or
273 affected by the approval status of the school system or
274 intervention in the authority of county board for school system
275 operation pursuant to section five, article two-e of this chapter.

276 (g) *State Board Designation of Innovation School Districts:*

277 The state board shall review the innovation school district
278 applications in accordance with the standards adopted by the
279 board, shall determine the highest rated applicants in each
280 category and shall determine whether to designate those
281 applicants as innovation school districts. The designation of an
282 applicant as an innovation school district is at the sole discretion
283 of the state board. The state board shall notify each applicant of
284 the board's determination within thirty days of the final
285 determinations.

286 (h) *Innovation School Districts:*

287 The designation of a school system as an innovation school
288 district authorizes the county board to submit requests to the

289 state board for exceptions to statutes, policies, rules and
290 interpretations that are required to permit implementation of the
291 innovative strategies contemplated in its innovation school
292 district plan. The designation as an innovation school district
293 authorizes the county board to submit multiple individual
294 requests for exceptions to permit implementation of different
295 strategies contemplated in the plan as the strategies are
296 developed. Each request for an exception shall be submitted and
297 may be approved by the state board subject to the following:

298 (1) The county board of a school system designated as an
299 innovation school district may request an exception to a statute,
300 policy, rule or interpretation by submitting an application to the
301 state board that contains the following information:

302 (A) A description of the program or initiative the school
303 system intends to implement at a school, group of schools or
304 district-wide as an innovative strategy to improve student
305 achievement if the request is approved by the state board;

306 (B) An explanation of the specific exception to a statute,
307 policy, rule or interpretation, in the singular or plural, that the
308 school system has identified as prohibiting or constraining the
309 implementation of the program or initiative and why the
310 exception is necessary;

311 (C) An explanation of how the program or initiative furthers
312 the activities contemplated in the innovation school district plan;

313 (D) A certification by the county superintendent that the
314 request for an exception was approved by a vote of the eligible
315 employees in accordance with the process for voting as set forth
316 in section six of this article; and

317 (E) Any other information the state board requires as set
318 forth in its rule to implement this section.

319 (2) The state board shall review the request in accordance
320 with the standards in its rule and shall determine whether to

321 approve or disapprove the request. The approval or disapproval
322 of a request is at the sole discretion of the state board in
323 accordance with the requirements of this section.

324 (3) Except as provided in subdivision (5) of this subsection,
325 the state board shall approve or disapprove the request within
326 sixty days of receipt, subject to the following:

327 (A) No exceptions to state board policies, rules or
328 interpretations are granted unless the state board approves the
329 request at least conditionally pursuant to subdivisions (2) and (5)
330 of this subsection; and

331 (B) If the request is disapproved, the state board shall
332 communicate its reasons for the disapproval to the county board
333 and shall make recommendations for improving the request. The
334 county board may amend and resubmit the request.

335 (4) Upon approval of the request by the state board, all of the
336 exceptions to state board policies, rules and interpretations that
337 were requested are granted;

338 (5) If a request, or a part thereof, may not be implemented
339 unless an exception to a statute is granted by an Act of the
340 Legislature, the state board may approve the request, or the part
341 thereof, only upon the condition that the Legislature acts to grant
342 the exception. If the state board approves a request on that
343 condition, the state board shall submit the request for an
344 exception to a statute, along with supporting reasons, to the
345 Legislative Oversight Commission of Education Accountability.
346 The commission shall review the request and make a
347 recommendation to the Legislature regarding the exception
348 requested; and

349 (6) An innovation school district may not request an
350 exception nor may an exception be granted from any of the
351 following:

352 (A) A required statewide assessment program administered
353 by the West Virginia Department of Education;

354 (B) Any provision of law or policy required by Public Law
355 94-142, Public Law No. 107-110 or other federal law;

356 (C) Sections two and seven, article two, chapter eighteen-a
357 of this code and sections seven-a, seven-b, eight and eight-b,
358 article four, chapter eighteen-a of this code, except that an
359 innovation school district may make a job posting for a teacher
360 vacancy in accordance with the procedures and the approval by
361 a vote of the teachers as provided in section eight of this article;
362 and

363 (D) Any statute, policy, rule or other requirements of the
364 state board or other agency related to the health and safety of
365 students or employees, any requirements imposed by ethics laws
366 or opinions, any requirements imposed by open records or open
367 meetings laws, any requirements related to financial or academic
368 reporting or transparency, or any requirements designed to
369 protect the civil rights of students or employees.

370 (i) *Revision, Extension and Revocation of Innovation School*
371 *District Plan:*

372 (1) The county board of a school system designated as an
373 innovation school district pursuant to this section may revise its
374 innovation school district plan and resubmit its plan to the state
375 board for approval after complying with all other applicable plan
376 requirements set forth in this section for initial plan approval.

377 (2) The designation of a school system as an innovation
378 school district shall be for a period of five years. The state board,
379 upon request of the county board, may extend the designation for
380 an additional two years if the school system has outstanding
381 items in its school system collaborative innovation zone plan
382 that it still wants to pursue and only for the purpose of pursuing
383 those outstanding items.

384 (3) The state board after periodic review of an established
385 innovation school district may, upon recommendation of the
386 innovation zone application review committee, revoke the school
387 district's designation as an innovation school district for
388 noncompliance or nonperformance.

389 (j) *Affect of Plan Expiration on Innovations:*

390 The expiration of a school system's designation as an
391 innovation school district does not negate any exceptions to
392 statutes, policies, rules or interpretations granted to the school
393 system unless and until specifically revoked, repealed or
394 modified by the state board or by the Legislature, as applicable.

395 (k) *State Board Rule and Annual Reviews:*

396 The state board shall adopt, in accordance with article three-
397 b, chapter twenty-nine-a of this code, a rule for the
398 implementation of this section. The state board or its designated
399 committee shall perform annual performance reviews and
400 provide annual reports in accordance with section seven of this
401 article.

CHAPTER 52

**(Com. Sub. for H. B. 4373 - By Delegates M. Poling, Barrett,
Lawrence, Perry, Fragale, Campbell and Tomblin)**

[Passed March 7, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 31, 2014.]

AN ACT to repeal §18-6-9 and §18-6-10 of the Code of West Virginia, 1931, as amended, to amend and reenact §18-6-1, §18-6-2, §18-6-4, §18-6-5 and §18-6-8 of said code, all relating to driver education

programs; repealing requirements on the State Department of Education and county superintendents related to instruction and licensing of commercial driver education schools; removing the requirement that schools provide course availability to out-of-school youths and adults; allowing summer school offerings in driver education; prohibiting charges to students for the course; authorizing permitted instructors under certain circumstances; and allowing successful completion of the course in commercial driving school or class accepted by the state board to meet purposes of article.

Be it enacted by the Legislature of West Virginia:

That §18-6-9 and §18-6-10 of the Code of West Virginia, 1931, as amended, be repealed; and that §18-6-1, §18-6-2, §18-6-4, §18-6-5 and §18-6-8 of said code be amended and reenacted, all to read as follows:

ARTICLE 6. DRIVER EDUCATION.

§18-6-1. Purpose and objectives of article.

1 The purpose of this article is to ensure that every secondary
2 school pupil has the opportunity, at or about the time he or she
3 reaches licensing age, to enroll in a course of driver education
4 designed to train him or her to drive skillfully and safely under
5 all traffic and roadway conditions and circumstances.

§18-6-2. Where provided; permit or certificate for persons who are not professional educators to teach course.

1 (a) There shall be offered in all public secondary schools
2 within the state, without charge to students, an approved,
3 comprehensive course in driver education. The course may be
4 offered in summer school in addition to the regular instructional
5 term.

6 (b) In those counties where sufficient public secondary
7 school driver education courses are not available to meet all

8 requests for the course, county boards of education shall, as
9 quickly as possible, make sufficient courses available to fill
10 those requests.

11 (c) Under the authority and subject to the conditions
12 provided in section two-a, article three, chapter eighteen-a of this
13 code, the State Superintendent may issue a permit or other
14 certificate to persons who do not qualify for the professional
15 certificate for the purpose of providing instruction in driver
16 education subject to the following:

17 (1) The applicant for the permit or certificate is subject to the
18 criminal history check of applicants for licensure provided in
19 section ten, article three, chapter eighteen-a of this code;

20 (2) The permit or certificate may not be given permanent
21 status, but may be renewed in accordance with rules adopted by
22 the State Department of Education;

23 (3) The duties of a person who has a valid permit or
24 certificate under this subsection may include the supervision of
25 students;

26 (4) The person, when providing instruction in the public
27 schools, may only be employed under a contract with the
28 respective county board of education that specifies the duties to
29 be performed, a rate of pay that is equivalent to the rate of pay
30 for professional educators in the district who accept similar
31 duties as extra duty assignments and provides for liability
32 insurance associated with the activity;

33 (5) The person may not be considered an employee of the
34 board for salary and benefit purposes other than as specified in
35 the contract;

36 (6) The person completes an orientation program designed
37 and approved in accordance with State Department of Education
38 rules; and

39 (7) The position is posted annually and a professional
40 educator fully certified for the position has not applied.

§18-6-4. Rules.

1 In accordance with article three-b, chapter twenty-nine-a of
2 this code, the state board shall, with the advice of the State
3 Superintendent and the Superintendent of the State Police, adopt
4 rules governing the establishment, conduct and scope of driver
5 education for use in the public, private and parochial secondary
6 schools located within this state, subject to the requirements and
7 exceptions set forth in this article.

**§18-6-5. Establishment and maintenance of driver education
course; who may enroll; exemption from learner's
permit requirement; nonpermit student drivers.**

1 The State Superintendent shall promote and direct the
2 establishment and maintenance of courses of instruction in driver
3 education in secondary schools in accordance with the provisions
4 of this article and the rules that the state board adopts pursuant
5 to section four of this article. Directors, trustees or other persons
6 having control or authority over private or parochial secondary
7 schools, who establish and maintain the courses in the schools
8 under their control or supervision, shall comply with the rules
9 that the state board adopts pursuant to section four of this article.

10 In the case of a pupil who will not reach the age of fifteen
11 years before completion of the driver education course in which
12 enrolled, instruction shall be limited to the classroom. Pupils
13 who are fifteen years of age and older shall receive instruction
14 and practical training in the operation of motor vehicles on the
15 public streets and highways.

16 Notwithstanding section three-a, article two, chapter
17 seventeen-b of this code, any student who is at least fifteen years
18 of age and is enrolled in a driver education course in accordance

19 with the provisions of this article and the rules that the state
20 board adopts pursuant to section four of this article, may operate
21 a motor vehicle on the roadways of West Virginia while
22 accompanied by a certified driver education teacher or instructor
23 permitted by the state superintendent to provide driver education
24 instruction.

**§18-6-8. Driver education course to be made available to all
secondary school pupils prior to their graduation;
exemption; application by pupil for unrestricted
operator's license.**

1 Before any pupil graduates from a secondary school, he or
2 she shall first be provided an opportunity and encouraged to
3 successfully complete a driver education course approved by the
4 state board in a public, private or parochial secondary school
5 within the state. If a pupil has successfully completed a similar
6 course in a secondary school of another state or in a commercial
7 driving school or class and the course is accepted by the state
8 board as adequately meeting and complying with the course
9 standards established by the state board, then the aforementioned
10 requirement shall be deemed fulfilled regarding that pupil.

11 Any secondary school pupil sixteen years of age or older, but
12 under eighteen years of age, who has successfully completed a
13 driver education course approved by the state board in a public,
14 private, parochial secondary school within the state or a similar
15 course in a secondary school of another state or in a commercial
16 driving school or class and accepted by the state board as
17 adequately meeting and complying with the course standards
18 established by the state board, shall be exempted from
19 submitting a sworn affidavit certified by the parent, legal
20 guardian, or other responsible adult over the age of twenty-one
21 that the applicant has successfully completed the minimum
22 number of hours of behind-the-wheel training as provided in
23 section three-a, article two, chapter seventeen-b of the code.

CHAPTER 53

**(H.B. 4365 - By Delegates Pethtel, Jones, Canterbury,
Kump, Craig, Lynch and Ellem)
[By Request of the Consolidated Public Retirement Board]**

[Passed March 5, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the Code of West Virginia, 1931, as amended, all relating to employer remittance and reporting of Teachers Retirement System member contributions to the retirement board; providing procedure for contributions by members and employers; requiring payment of compounded interest by members of the Public Employees Retirement System when granting service credit in the Teachers Retirement System; closing the Teachers Employers Contribution Collection Account on or before June 30, 2014 and transferring any balance of employer contributions to the Teachers Retirement System Fund; depositing employer contributions through state appropriations to the Teachers Retirement System Fund beginning July 1, 2014; and directing additional funds from the Employers Contribution Collection Account to the Teachers Retirement System Fund.

Be it enacted by the Legislature of West Virginia:

That §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-14. Contributions by members; contributions by employers; forfeitures.

1 (a) At the end of each month every member of the retirement
2 system shall contribute six percent of that member's monthly
3 gross salary to the retirement board: *Provided*, That any member
4 employed by a state institution of higher education shall
5 contribute on the member's full earnable compensation, unless
6 otherwise provided in section fourteen-a of this article. The sums
7 are due the State Teachers Retirement System at the end of each
8 calendar month and shall be paid not later than fifteen days
9 following the end of the calendar month. Each remittance shall
10 be accompanied by a detailed summary of the sums withheld
11 from the gross compensation of each member for that month on
12 forms, either paper or electronic, provided by the State Teachers
13 Retirement System for that purpose.

14 (b) Annually, the contributions of each member shall be
15 credited to the member's account in the State Teachers
16 Retirement System Fund. The contributions shall be deducted
17 from the gross salaries of the members as prescribed in this
18 section and every member shall be considered to have given
19 consent to the deductions. No deductions, however, shall be
20 made from the earnable compensation of any member who
21 retired because of age or service and then resumed service unless
22 as provided in section thirteen-a of this article.

23 (c) The aggregate of employer contributions, due and
24 payable under this article, shall equal annually the total
25 deductions from the gross salary of members required by this
26 section. Beginning July 1, 1994, the rate shall be seven and
27 one-half percent; beginning on July 1, 1995, the rate shall be
28 nine percent; beginning on July 1, 1996, the rate shall be ten and
29 one-half percent; beginning on July 1, 1997, the rate shall be
30 twelve percent; beginning on July 1, 1998, the rate shall be
31 thirteen and one-half percent; and beginning on July 1, 1999, and
32 thereafter, the rate shall be fifteen percent: *Provided*, That the
33 rate shall be seven and one-half percent for any individual who
34 becomes a member of the State Teachers Retirement System for

35 the first time on or after July 1, 2005, or any individual who
36 becomes a member of the State Teachers Retirement System as
37 a result of the voluntary transfer contemplated in article seven-d
38 of this chapter.

39 (d) Payment by an employer to a member of the sum
40 specified in the employment contract minus the amount of the
41 employee's deductions shall be considered to be a full discharge
42 of the employer's contractual obligation as to earnable
43 compensation.

44 (e) Each employer shall file with the retirement board a
45 completed enrollment form showing the contributor's date of
46 birth and other data needed by the retirement board.

47 (f) Notwithstanding any other provisions of this article,
48 forfeitures under the retirement system shall not be applied to
49 increase the benefits any member would otherwise receive under
50 the retirement system.

**§18-7A-17. Statement and computation of teachers' service;
qualified military service.**

1 (a) Under rules adopted by the retirement board, each
2 teacher and nonteaching member shall file a detailed statement
3 of his or her length of service as a teacher or nonteacher for
4 which he or she claims credit. The retirement board shall
5 determine what part of a year is the equivalent of a year of
6 service. In computing the service, however, it shall credit no
7 period of more than a month's duration during which a member
8 was absent without pay, nor shall it credit for more than one year
9 of service performed in any calendar year.

10 (b) For the purpose of this article, the retirement board shall
11 grant prior service credit to members of the retirement system
12 who were honorably discharged from active duty service in any
13 of the Armed Forces of the United States in any period of

14 national emergency within which a federal Selective Service Act
15 was in effect. For purposes of this section, “Armed Forces”
16 includes Women’s Army Corps, women’s appointed volunteers
17 for emergency service, Army Nurse Corps, SPARS, Women’s
18 Reserve and other similar units officially parts of the military
19 service of the United States. The military service is considered
20 equivalent to public school teaching, and the salary equivalent
21 for each year of that service is the actual salary of the member as
22 a teacher for his or her first year of teaching after discharge from
23 military service. Prior service credit for military service shall not
24 exceed ten years for any one member, nor shall it exceed
25 twenty-five percent of total service at the time of retirement.
26 Notwithstanding the preceding provisions of this subsection,
27 contributions, benefits and service credit with respect to
28 qualified military service shall be provided in accordance with
29 Section 414(u) of the Internal Revenue Code. For purposes of
30 this section, “qualified military service” has the same meaning
31 as in Section 414(u) of the Internal Revenue Code. The
32 retirement board is authorized to determine all questions and
33 make all decisions relating to this section and, pursuant to the
34 authority granted to the retirement board in section one, article
35 ten-d, chapter five of this code, may promulgate rules relating to
36 contributions, benefits and service credit to comply with Section
37 414(u) of the Internal Revenue Code. No military service credit
38 may be used in more than one retirement system administered by
39 the Consolidated Public Retirement Board.

40 (c) For service as a teacher in the employment of the federal
41 government, or a state or territory of the United States, or a
42 governmental subdivision of that state or territory, the retirement
43 board shall grant credit to the member: *Provided*, That the
44 member shall pay to the system twelve percent of that member’s
45 gross salary earned during the first full year of current
46 employment whether a member of the Teachers’ Retirement
47 System or the Teachers’ Defined Contribution Retirement
48 System, times the number of years for which credit is granted,

49 plus interest at a rate to be determined by the retirement board.
50 The interest shall be deposited in the reserve fund and service
51 credit granted at the time of retirement shall not exceed the
52 lesser of ten years or fifty percent of the member's total service
53 as a teacher in West Virginia. Any purchase of out-of-state
54 service, as provided in this article, shall not be used to establish
55 eligibility for a retirement allowance and the retirement board
56 shall grant credit for the purchased service as additional service
57 only: *Provided, however,* That a purchase of out-of-state service
58 is prohibited if the service is used to obtain a retirement benefit
59 from another retirement system: *Provided further,* That salaries
60 paid to members for service prior to entrance into the retirement
61 system shall not be used to compute the average final salary of
62 the member under the retirement system.

63 (d) No members shall be considered absent from service
64 while serving as a member or employee of the Legislature of the
65 State of West Virginia during any duly constituted session of
66 that body or while serving as an elected member of a county
67 commission during any duly constituted session of that body.

68 (e) No member shall be considered absent from service as a
69 teacher or nonteacher while serving as an officer with a
70 statewide professional teaching association, or who has served
71 in that capacity, and no retirant, who served in that capacity
72 while a member, shall be considered to have been absent from
73 service as a teacher by reason of that service: *Provided,* That the
74 period of service credit granted for that service shall not exceed
75 ten years: *Provided, however,* That a member or retirant who is
76 serving or has served as an officer of a statewide professional
77 teaching association shall make deposits to the Teachers
78 Retirement System, for the time of any absence, in an amount
79 double the amount which he or she would have contributed in his
80 or her regular assignment for a like period of time.

81 (f) The Teachers Retirement System shall grant service
82 credit to any former or present member of the West Virginia

83 Public Employees Retirement System who has been a
84 contributing member of the Teachers Retirement System for
85 more than three years, for service previously credited by the
86 Public Employees Retirement System upon his or her written
87 request and: (1) Shall require the transfer of the member's Public
88 Employees Retirement System accumulated contributions to the
89 Teachers Retirement System; or (2) shall require a repayment of
90 the amount withdrawn from the Public Employees Retirement
91 System, plus interest at a rate to be determined by the retirement
92 board, compounded annually from the date of withdrawal to the
93 date of payment, any time prior to the member's effective
94 retirement date: *Provided*, That there shall be added by the
95 member to the amounts transferred or repaid under this
96 subsection an amount which shall be sufficient to equal the
97 contributions he or she would have made had the member been
98 under the Teachers Retirement System during the period of his
99 or her membership in the Public Employees Retirement System,
100 plus interest at a rate determined by the retirement board,
101 compounded annually from the date the additional contribution
102 would have been made had the member been under the Teachers
103 Retirement System to the date of payment. All interest paid or
104 transferred shall be deposited in the reserve fund.

105 (g) For service as a teacher in an elementary or secondary
106 parochial school, located within this state and fully accredited by
107 the West Virginia Department of Education, the retirement board
108 shall grant credit to the member: *Provided*, That the member
109 shall pay to the system twelve percent of that member's gross
110 salary earned during the first full year of current employment
111 whether a member of the Teachers' Retirement System or the
112 Teachers' Defined Contribution Retirement System, times the
113 number of years for which credit is granted, plus interest at a rate
114 to be determined by the retirement board. The interest shall be
115 deposited in the reserve fund and service granted at the time of
116 retirement shall not exceed the lesser of ten years or fifty percent
117 of the member's total service as a teacher in the West Virginia

118 public school system. Any purchase of parochial school service,
119 as provided in this section, may not be used to establish
120 eligibility for a retirement allowance and retirement board shall
121 grant credit for the purchase as additional service only:
122 *Provided, however,* That a purchase of parochial school service
123 is prohibited if the service is used to obtain a retirement benefit
124 from another retirement system.

125 (h) Active members who previously worked in CETA
126 (Comprehensive Employment and Training Act) may receive
127 service credit for time served in that capacity: *Provided,* That in
128 order to receive service credit under the provisions of this
129 subsection the following conditions must be met: (1) The
130 member must have moved from temporary employment with the
131 participating employer to permanent full-time employment with
132 the participating employer within one hundred twenty days
133 following the termination of the member's CETA employment;
134 (2) the retirement board must receive evidence that establishes to
135 a reasonable degree of certainty as determined by the retirement
136 board that the member previously worked in CETA; and (3) the
137 member shall pay to the retirement board an amount equal to the
138 employer and employee contribution plus interest at the amount
139 set by the retirement board for the amount of service credit
140 sought pursuant to this subsection: *Provided, however,* That the
141 maximum service credit that may be obtained under the
142 provisions of this subsection is two years: *Provided further,* That
143 a member must apply and pay for the service credit allowed
144 under this subsection and provide all necessary documentation
145 by March 31, 2003: *And provided further,* That the retirement
146 board shall exercise due diligence to notify affected employees
147 of the provisions of this subsection.

148 (i) If a member is not eligible for prior service credit or
149 pension as provided in this article, then his or her prior service
150 shall not be considered a part of his or her total service.

151 (j) A member who withdrew from membership may regain
152 his or her former membership rights as specified in section
153 thirteen of this article only in case he or she has served two years
154 since his or her last withdrawal.

155 (k) Subject to the provisions of subsections (a) through (l),
156 inclusive, of this section, the retirement board shall verify as
157 soon as practicable the statements of service submitted. The
158 retirement board shall issue prior service certificates to all
159 persons eligible for the certificates under the provisions of this
160 article. The certificates shall state the length of the prior service
161 credit, but in no case shall the prior service credit exceed forty
162 years.

163 (l) Notwithstanding any provision of this article to the
164 contrary, when a member is or has been elected to serve as a
165 member of the Legislature, and the proper discharge of his or her
166 duties of public office require that member to be absent from his
167 or her teaching or administrative duties, the time served in
168 discharge of his or her duties of the legislative office are credited
169 as time served for purposes of computing service credit:
170 *Provided*, That the retirement board may not require any
171 additional contributions from that member in order for the
172 retirement board to credit him or her with the contributing
173 service credit earned while discharging official legislative duties:
174 *Provided, however*, That nothing in this section may be
175 construed to relieve the employer from making the employer
176 contribution at the member's regular salary rate or rate of pay
177 from that employer on the contributing service credit earned
178 while the member is discharging his or her official legislative
179 duties. These employer payments shall commence as of June 1,
180 2000: *Provided further*, That any member to which the
181 provisions of this subsection apply may elect to pay to the
182 retirement board an amount equal to what his or her contribution
183 would have been for those periods of time he or she was serving
184 in the Legislature. The periods of time upon which the member

185 paid his or her contribution shall then be included for purposes
186 of determining his or her final average salary as well as for
187 determining years of service: *And provided further*, That a
188 member using the provisions of this subsection is not required to
189 pay interest on any contributions he or she may decide to make.

190 (m) The Teachers Retirement System shall grant service
191 credit to any former member of the State Police Death, Disability
192 and Retirement System who has been a contributing member for
193 more than three years, for service previously credited by the
194 State Police Death, Disability and Retirement System; and: (1)
195 Shall require the transfer of the member's contributions to the
196 Teachers Retirement System; or (2) shall require a repayment of
197 the amount withdrawn any time prior to the member's
198 retirement: *Provided*, That the member shall add to the amounts
199 transferred or repaid under this paragraph an amount which is
200 sufficient to equal the contributions he or she would have made
201 had the member been under the Teachers Retirement System
202 during the period of his or her membership in the State Police
203 Death, Disability and Retirement System plus interest at a rate
204 to be determined by the retirement board compounded annually
205 from the date of withdrawal to the date of payment. The interest
206 paid shall be deposited in the reserve fund.

§18-7A-18. Teachers Retirement System Fund; transfers.

1 (a) There is hereby created in the State Treasury a special
2 revenue account designated the "Teachers Employers
3 Contribution Collection Account" to be administered by the
4 Consolidated Public Retirement Board. The Teachers Employers
5 Contribution Collection Account shall be an interest-bearing
6 account with interest credited to and deposited in the account
7 and transferred in accordance with the provisions of this section:
8 *Provided*, That on or before June 30, 2014, the Consolidated
9 Public Retirement Board shall close the Teachers Employers
10 Contribution Collection Account and transfer any balance in the

11 Teachers Employers Contribution Collection Account to the
12 Teachers Retirement System Fund. After the Teachers
13 Employers Contribution Collection Account is closed, any
14 amounts required to be transferred or remitted to the Teachers
15 Employers Contribution Collection Account shall be transferred
16 or remitted to the Teachers Retirement System Fund.

17 (b) There is hereby continued in the State Treasury a
18 separate irrevocable trust designated the Teachers Retirement
19 System Fund. The Teachers Retirement System Fund shall be
20 invested as provided in section nine-a, article six, chapter twelve
21 of this code.

22 (c) Beginning July 1, 2014, there shall be deposited into the
23 Teachers Retirement System Fund, the following:

24 (1) Contributions of employers, through state appropriations,
25 and the amounts shall be included in the budget bill submitted
26 annually by the Governor;

27 (2) Beginning on July 1, 2005, contributions from each
28 county in an amount equal to fifteen percent of all salary paid in
29 excess of that authorized for minimum salaries in sections two
30 and eight-a, article four, chapter eighteen-a of this code and any
31 salary equity authorized in section five of said article or any
32 county supplement equal to the amount distributed for salary
33 equity among the counties for each individual who was a
34 member of the Teachers Retirement System before July 1, 2005:
35 *Provided*, That the rate shall be seven and one-half percent for
36 any individual who becomes a member of the Teachers
37 Retirement System for the first time on or after July 1, 2005 or
38 any individual who becomes a member of the Teachers
39 Retirement System as a result of the transfer contemplated in
40 article seven-d of this chapter;

41 (3) Member contributions provided in section fifteen of this
42 article;

43 (4) Gifts and bequests to the fund and any accretions and
44 accumulations which may properly be paid into and become a
45 part of the fund;

46 (5) Specific appropriations to the fund made by the
47 Legislature;

48 (6) Interest on the investment of any part or parts of the
49 fund; and

50 (7) Any other moneys, available and not otherwise
51 expended, which may be appropriated or transferred to the
52 Teachers Retirement System or the Fund.

53 (d) The Teachers Retirement System Fund shall be the fund
54 from which annuities shall be paid.

55 (e) The Consolidated Public Retirement Board has sole
56 authority to direct and approve the making of any and all fund
57 transfers as provided in this section, anything in this code to the
58 contrary notwithstanding.

59 (f) References in the code to the Teachers Accumulation
60 Fund, the Employers Accumulation Fund, the Benefit Fund, the
61 Reserve Fund and the Expense Fund mean the Teachers
62 Retirement System Fund.

**§18-7A-18a. Calculation of allocation to Teachers Retirement
System Fund.**

1 (a) There shall be an annual allocation from the State
2 General Revenue Fund to the Teachers Retirement System Fund,
3 created by section eighteen of this article, equal to the actuarially
4 required contribution, reduced by any employer contributions
5 and other allocated amounts.

6 (b) There shall be an additional allocation in each year an
7 amount equal to the total of all irrevocably forfeited amounts in

8 the suspension account established in section eleven, article
9 seven-b of this chapter plus earnings thereon which have been
10 certified to the several contributing employers as irrevocably
11 forfeited in the prior fiscal year and subsequently used by the
12 contributing employers to reduce their total aggregate
13 contribution requirements pursuant to section seventeen, article
14 seven-b of this chapter.

15 (c) The additional allocation provided in this section
16 represents a funding method by which a part of a rational
17 amortization plan will be established to amortize the current
18 unfunded liability of the Teachers Retirement System created by
19 this article. The additional allocations are not and shall not be
20 construed to be moneys which are owed to, nor earned by any
21 employee.

CHAPTER 54

**(Com. Sub. for H. B. 4003 - By Delegates Walker,
Perry, Paxton, M. Poling and Pethtel)**

[Passed March 4, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 20, 2014.]

AN ACT to amend and reenact §18-8-2 of the Code of West Virginia, 1931, as amended, relating to jurisdiction to enforce compulsory school attendance; granting jurisdiction in either county when county of residence and school of enrollment are different.

Be it enacted by the Legislature of West Virginia:

That §18-8-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**§18-8-2. Offenses; penalties; cost of prosecution; jurisdiction.**

1 (a) Any person who, after receiving due notice, shall fail to
2 cause a child or children under eighteen years of age in that
3 person's legal or actual charge to attend school in violation of
4 this article or without just cause, shall be guilty of a
5 misdemeanor and, shall, upon conviction of a first offense, be
6 fined not less than \$50 nor more than \$100 together with the
7 costs of prosecution, or required to accompany the child to
8 school and remain through the school day for so long as the
9 magistrate or judge may determine is appropriate. The
10 magistrate or judge, upon conviction and pronouncing sentence,
11 may delay the sentence for a period of sixty school days
12 provided the child is in attendance everyday during said
13 sixty-day period. Following the sixty-day period, if said child
14 was present at school for every school day, the delayed sentence
15 may be suspended and not enacted. Upon conviction of a second
16 offense, a fine may be imposed of not less than \$50 nor more
17 than \$100 together with the costs of prosecution and the person
18 may be required to accompany the child to school and remain
19 throughout the school day until such time as the magistrate or
20 judge may determine is appropriate or confined in jail not less
21 than five nor more than twenty days. Every day a child is out of
22 school contrary to this article shall constitute a separate offense.
23 Magistrates shall have concurrent jurisdiction with circuit courts
24 for the trial of offenses arising under this section.

25 (b) Any person eighteen years of age or older who is enrolled
26 in school who, after receiving due notice, fails to attend school
27 in violation of this article or without just cause, shall be guilty of
28 a misdemeanor and, shall, upon conviction of a first offense, be
29 fined not less than \$50 nor more than \$100 together with the
30 costs of prosecution and required to attend school and remain
31 throughout the school day. The magistrate or judge, upon
32 conviction and pronouncing sentence, may delay the imposition

33 of a fine for a period of sixty school days provided the person is
34 in attendance every day during said sixty-day period. Following
35 the sixty-day period, if said student was present at school
36 everyday, the delayed sentence may be suspended and not
37 enacted. Upon conviction of a second offense, a fine may be
38 imposed of not less than \$50 nor more than \$100 together with
39 the costs of prosecution and the person may be required to go to
40 school and remain throughout the school day until such time as
41 the person graduates or withdraws from school or confined in
42 jail not less than five nor more than twenty days. Every day a
43 student is out of school contrary to this article shall constitute a
44 separate offense. Magistrates shall have concurrent jurisdiction
45 with circuit courts for the trial of offenses arising under this
46 section.

47 (c) Upon conviction of a third offense, any person eighteen
48 years of age or older who is enrolled in school shall be
49 withdrawn from school during the remainder of that school year.
50 Enrollment of that person in school during the next school year
51 or years thereafter shall be conditional upon all absences being
52 excused as defined in law, state board policy and county board
53 of education policy. More than one unexcused absence of such
54 a student shall be grounds for the director of attendance to
55 authorize the school to withdraw the person for the remainder of
56 the school year. Magistrates shall have concurrent jurisdiction
57 with circuit courts for the trial of offenses arising under this
58 section.

59 (d) Jurisdiction to enforce compulsory school attendance laws
60 lies in the county in which a student resides and in the county
61 where the school at which the student is enrolled is located.
62 When the county of residence and enrollment are different, an
63 action to enforce compulsory school attendance may be brought
64 in either county and the magistrates and circuit courts of either
65 county have concurrent jurisdiction for the trial of offenses
66 arising under this section.

CHAPTER 55

**(S. B. 209 - By Senators Beach, Miller, Cookman,
Walters and Fitzsimmons)**

[Passed March 6, 2014; in effect from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §18-20-1 of the Code of West Virginia, 1931, as amended, relating to special programs and services for exceptional children; requiring county boards to allow student with disabilities whose individualized education plan provides for a modified diploma to participate in graduation ceremony with same grade classmates; permitting continued special education services; and prohibiting county boards from denying continuing special education services to the student due to participation in graduation ceremony.

Be it enacted by the Legislature of West Virginia:

That §18-20-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

**§18-20-1. Establishment of special programs and teaching services
for exceptional children; modified diploma
graduation.**

- 1 (a) In accordance with the following provisions, county
- 2 boards of education throughout the state shall establish and
- 3 maintain for all exceptional children between five and
- 4 twenty-one years of age special educational programs, including,
- 5 but not limited to, special schools or classes, regular classroom

6 programs, home-teaching or visiting-teacher services for any
7 type or classification as the state board shall approve. Special
8 educational programs shall continue to be provided to those
9 children who are at least twenty-one years of age and enrolled in
10 the above-mentioned special education program prior to
11 September 1, 1991, until they reach twenty-three years of age.
12 Provisions shall be made for educating exceptional children
13 (including the handicapped and the gifted) who differ from the
14 average or normal in physical, mental or emotional
15 characteristics, or in communicative or intellectual deviation
16 characteristics, or in both communicative and intellectual
17 deviation characteristics, to the extent that they cannot be
18 educated safely or profitably in the regular classes of the public
19 schools or to the extent that they need special educational
20 provisions within the regular classroom in order to educate them
21 in accordance with their capacities, limitations and needs:
22 *Provided*, That for the school year beginning on July 1, 1990,
23 provisions shall be made for educating exceptional children,
24 including the handicapped, the gifted in grades one through
25 eight, the pupils enrolled on July 1, 1989, in the gifted program
26 in grades nine through twelve and the exceptional gifted in
27 grades nine through twelve. The term "exceptional gifted" means
28 those students in grades nine through twelve identified as gifted
29 and at least one of the following: Behavior disorder, specific
30 learning disabilities, psychological adjustment disorder,
31 underachieving or economically disadvantaged. Exceptional
32 gifted children shall be referred for identification pursuant to
33 recommendation by a school psychologist, school counselor,
34 principal, teacher, parent or by self-referral, at which time the
35 placement process, including development of an individualized
36 education program, and attendant due-process rights, shall
37 commence. Exceptional gifted children, for purposes of
38 calculating adjusted enrollment pursuant to section two, article
39 nine-a of this chapter, shall not exceed one percent of net
40 enrollment in grades nine through twelve. Nothing herein shall

41 be construed to limit the number of students identified as
42 exceptional gifted and who receive appropriate services. Each
43 county board of education is mandated to provide gifted
44 education to its students according to guidelines promulgated by
45 the state board and consistent with the provisions of this chapter.
46 Upon the recommendation of a principal, counselor, teacher and
47 parent, a student who does not meet the gifted eligibility criteria
48 may participate in any school program deemed appropriate for
49 the student provided that classroom space is available. In
50 addition, county boards of education may establish and maintain
51 other educational services for exceptional children as the State
52 Superintendent of Schools may approve.

53 (b) County boards of education shall establish and maintain
54 these special educational programs, including, but not limited to,
55 special schools classes, regular class programs, home-teaching
56 and visiting-teacher services. The special education programs
57 shall include home-teaching or visiting-teacher services for
58 children who are homebound due to injury or who for any other
59 reason as certified by a licensed physician are homebound for a
60 period that has lasted or will last more than three weeks. The
61 state board shall adopt rules to advance and accomplish this
62 program and to assure that all exceptional children in the state,
63 including children in mental health facilities, residential
64 institutions and private schools, will receive an education in
65 accordance with the mandates of state and federal laws:
66 *Provided*, That commencing with the school year beginning on
67 July 1, 1991, all exceptional children in the state in foster care
68 and correctional facilities will receive an education in
69 accordance with the mandates of state and federal laws.

70 (c) Each county board of education shall adopt a policy that
71 allows a student with disabilities whose individualized education
72 program provides for a modified diploma to participate in the
73 graduation ceremony of his or her same grade classmates if
74 requested in writing by his or her parent or legal guardian. The

75 county board shall also permit the student to continue receiving
76 his or her special education services after the graduation
77 ceremony. The county board may not terminate, deny or declare
78 the student ineligible for post-graduation ceremony special
79 education services due to his or her participation in the
80 graduation ceremony.

CHAPTER 56

**(Com. Sub. for H. B. 4384 - By Delegates Campbell,
Poling, Perry, Tomblin, Young, Barrett, Lawrence,
Hartman, L. Phillips, Ferro and Hunt)**

[Passed March 3, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §18-20-1c of the Code of West Virginia, 1931, as amended, relating to education of exceptional children; requiring processes for certain other teachers of students with exceptional needs to either participate in the meeting to develop or document reading and understanding of student's individualized education program; and requiring accommodations and modifications if needed or identified.

Be it enacted by the Legislature of West Virginia:

That §18-20-1c of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-1c. Integrated classrooms serving students with exceptional needs; and requirements as to the assistance, training

and information to be provided to the affected classroom teacher.

1 (a) The regular classroom teacher is entitled to the following
2 when placing a student with exceptional needs into an integrated
3 classroom when the student's individualized education program
4 requires an adjustment in either the curriculum, instruction or
5 service to be provided by the regular classroom teacher:

6 (1) Training provided pursuant to the integrated classroom
7 program and additional individualized training, pursuant to the
8 rules developed by the State Board of Education, if requested by
9 the regular classroom teacher to prepare the teacher to meet the
10 exceptional needs of individual students. Whenever possible,
11 the training shall be provided prior to the placement. Where prior
12 training is not possible, the training shall be commenced no later
13 than ten days following the placement of the student into the
14 regular classroom. Unavoidable delays in the provision of
15 training may not result in the exclusion of a special needs student
16 from any class if the training cannot be provided in ten days;

17 (2) A signed copy of the individualized education program
18 for the special education student prior to the placement of the
19 student into the regular classroom. The receiving and referring
20 teachers shall participate in the development of that student's
21 individualized education program and shall also sign the
22 individualized education program as developed. In all cases the
23 teacher shall receive a copy of the individualized education
24 program for the special education student prior to or at the time
25 of the placement of the student into the regular classroom. Any
26 teacher disagreeing with the individualized education program
27 committee's recommendation shall file a written explanation
28 outlining his or her disagreement or recommendation;

29 (3) Participation by referring teachers in all eligibility
30 committees and participation by referring and receiving teachers

31 in all individualized education program committees which
32 involve possible placement of an exceptional student in an
33 integrated classroom;

34 (4) Opportunity to reconvene the committee responsible for
35 the individualized education program of the student with special
36 needs assigned to the regular classroom teacher. The meeting
37 shall include all persons involved in a student's individualized
38 education program and shall be held within twenty-one days of
39 the time the request is made; and

40 (5) Assistance from persons trained or certified to deal with
41 a student's exceptional needs whenever assistance is part of the
42 student's individualized education program as necessary to
43 promote accomplishment of the program's goals and objectives:
44 *Provided*, That aides in the area of special education cannot be
45 reassigned to more than one school without the employee's
46 consent.

47 (b) Except teachers already required to participate in the
48 development of a student's individualized education program
49 and sign it as provided in subdivision (2) of this section, all other
50 teachers in whose class or program a student with exceptional
51 needs is enrolled shall:

52 (1) Participate in the meeting to develop the student's
53 individualized education program, or read and sign a copy of the
54 student's individualized education program plan acknowledging
55 that he or she has read and understands it; and

56 (2) Make accommodations and modifications for the student,
57 if needed or identified, to help the student succeed in the class or
58 program.

59 This requirement includes, but is not limited to, teachers of
60 music, musical education, art, driver education and other
61 instruction offered.

CHAPTER 57

**(Com. Sub. for H. B. 4608 - By Delegates Barrett,
Lawrence, Young, Tomblin and Campbell)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-20-10, relating to defining dyslexia and dyscalculia; state board responsibilities; and specifying legislative findings.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-20-10, to read as follows:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-10. Dyslexia and dyscalculia defined.

1 (a) The Legislature finds as follows:

2 (1) Reading difficulties are the most common cause of
3 academic failure and underachievement;

4 (2) There are many students who demonstrate significant
5 weaknesses with reading, writing and mathematics that are the
6 root causes of specific learning disabilities, including dyslexia,
7 dyscalculia and related learning difficulties. Of those who are
8 referred to special education services in public schools, the
9 majority are referred because of problems with language,
10 reading, writing, or a combination of each;

11 (3) Teaching reading effectively, especially to students
12 experiencing difficulty, requires considerable knowledge and

13 skill. Informed and effective classroom instruction, especially in
14 the early grades, can prevent and relieve the severity of language
15 difficulties, and significantly improve literacy development;

16 (4) For those students with specific learning disabilities,
17 including dyslexia and dyscalculia, who need specialized
18 instruction, competent intervention can lessen the impact of the
19 disorder and help the student overcome the most debilitating
20 symptoms;

21 (5) While programs for specific learning disabilities,
22 including dyslexia and dyscalculia, that certify or support
23 teachers, clinicians or specialists differ in their preparation
24 methodologies, teaching approaches and organizational
25 purposes, they should ascribe to a common set of professional
26 standards for the benefit of the students they serve. Compliance
27 with such standards can assure the public that individuals who
28 serve students with specific learning disabilities in public
29 schools are prepared to implement scientifically based and
30 clinically proven practices;

31 (6) The American Psychiatric Association's Diagnostic and
32 Statistical Manual of Mental Disorders, Fifth Edition (DSM-5),
33 and the federal Individuals with Disabilities Education and
34 Improvement Act of 2004 (IDEA) offer widely-adopted and
35 consistent standards to guide the preparation, certification and
36 professional development for teachers of reading and related
37 literacy skills in classroom, remedial and clinical settings; and

38 (7) The basis of ascribing to common standards to benefit
39 students with specific learning disabilities, including dyslexia
40 and dyscalculia, requires recognizing common characteristics of
41 the disabilities. The Legislature finds that the definitions of
42 dyslexia and dyscalculia prescribed by IDEA and DSM-5 are the
43 appropriate measure for recognizing characteristics of dyslexia
44 and dyscalculia in students.

45 (b) The Legislature recognizes the following regarding
46 dyslexia and dyscalculia:

47 (1) Dyslexia and dyscalculia are conditions that may be
48 considered under the specific learning disability category, and
49 their definitions are consistent with IDEA and state board policy.
50 State board policy provides that “specific learning disability”
51 means a disorder in one or more of the basic psychological
52 processes involved in understanding or in using language,
53 spoken or written, that may manifest itself in the imperfect
54 ability to listen, think, speak, read, write, spell, or to do
55 mathematical calculations, including conditions such as
56 perceptual disabilities, brain injury, minimal brain dysfunction,
57 dyslexia and developmental aphasia;

58 (2) Dyslexia is an alternative term used to refer to a pattern
59 of learning difficulties characterized by problems with accurate
60 or fluent word recognition, poor decoding, and poor spelling
61 abilities. If dyslexia is used to specify this particular pattern of
62 difficulties, it is important also to specify any additional
63 difficulties that are present, such as difficulties with reading
64 comprehension or math reasoning; and

65 (3) Dyscalculia is an alternative term used to refer to a
66 pattern of learning difficulties characterized by problems
67 processing numerical information, learning arithmetic facts, and
68 performing accurate or fluent calculations. If dyscalculia is used
69 to specify this particular pattern of mathematic difficulties, it is
70 important also to specify any additional difficulties that are
71 present, such as difficulties with math reasoning or word
72 reasoning accuracy.

73 (c) The state board is responsible for the following:

74 (1) Ensuring that all students receive the necessary and
75 appropriate screenings, evaluations and early assessments for
76 specific learning disabilities, including dyslexia and dyscalculia;

77 (2) Ensuring that any Individualized Education Program
78 regarding specific learning disabilities, including dyslexia or
79 dyscalculia, which is developed or implemented, is consistent
80 with the provisions of this section; and

81 (3) Providing ongoing information and education to parents
82 regarding specific learning disabilities, including dyslexia and
83 dyscalculia, and the services available to students with such
84 disabilities.

CHAPTER 58

(Com. Sub. for S. B. 253 - By Senators Palumbo and Laird)

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §18-21-2 and §18-21-4 of the Code of West Virginia, 1931, as amended, all relating to the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth; updating certain titles; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §18-21-2 and §18-21-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 21. SPECIAL COMMUNITY-BASED PILOT
DEMONSTRATION PROJECT TO IMPROVE
OUTCOMES FOR AT-RISK YOUTH.**

**§18-21-2. Creation of a special Community-Based Pilot
Demonstration Project to Improve Outcomes for
At-Risk Youth.**

1 Effective July 1, 2012, if funds are available, the Secretary
2 of the West Virginia Department of Health and Human
3 Resources shall select a community-based organization to
4 establish a special Community-Based Pilot Demonstration
5 Project to Improve Outcomes for At-Risk Youth in a specified
6 community for a duration of four years. The project will identify,
7 implement and document best practices that can be replicated in
8 other communities. The designated community-based
9 organization shall operate the special pilot project under the
10 direction of the Secretary of the Department of Health and
11 Human Resources and shall work in collaboration with the State
12 School Superintendent, local county school superintendent,
13 Chancellor for Community and Technical College Education, the
14 closest community and technical college and four-year college
15 or university, State Workforce Investment Division, Executive
16 Director of the West Virginia Vocational Rehabilitation
17 Services, the local juvenile court system, the local workforce
18 investment board, the Chancellor for Higher Education, the
19 Director of West Virginia Division of Juvenile Services, the
20 local mental or behavioral health organizations and other
21 governmental and community-based organizations.

§18-21-4. Organization and goals of the community-based pilot demonstration program.

1 (a) The pilot program shall be operated by a local
2 community-based organization under the direction of the
3 Secretary of the West Virginia Department of Health and Human
4 Resources and in collaboration with the State School
5 Superintendent, county school superintendent, Executive
6 Director of the State Workforce Investment Division, Executive
7 Director of WV Vocational Rehabilitation Services, the local
8 juvenile court system, the Chancellor for Higher Education, the
9 Chancellor for Community and Technical College Education,
10 president of the local community and technical college and

11 four-year college or university, the Director of the West Virginia
12 Division of Juvenile Services, the local mental or behavioral
13 health organizations and other governmental and
14 community-based organizations and partner agencies to serve as
15 a clearinghouse to coordinate comprehensive youth and family
16 services. The pilot project shall be housed within the community
17 and will be directed by a local community-based nonprofit
18 organization.

19 (b) The pilot project shall operate out of a centrally located
20 building to coordinate services to youth and their families in the
21 selected county from birth to seventeen years of age who are
22 referred by the Department of Health and Human Resources.

23 (c) The goal of the pilot program is to improve outcomes for
24 at-risk youth as measured by the following metrics:

25 (1) Early childhood development:

26 (A) Increase in the number of mothers receiving early
27 prenatal care;

28 (B) Increase in the number of mothers participating in the
29 Right From the Start Program;

30 (C) Increase in the number of children screened by the birth
31 to three year-old program for early development delays;

32 (D) Increase in the number of three year-olds enrolled in
33 Head Start;

34 (E) Increase in the number of four year-olds enrolled in
35 preschool.

36 (2) Preschool youth and teen measures:

37 (A) Decrease in school truancy;

- 38 (B) Decrease in truancy hearings;
- 39 (C) Decrease in school suspensions;
- 40 (D) Decrease in school expulsions;
- 41 (E) Decrease in high school dropouts at a select school;
- 42 (F) Increase in the number of youth participating in a
43 mentoring program;
- 44 (G) Increase in academic performance for select students;
- 45 (H) Increase in the number of youth participating in summer
46 employment; and
- 47 (I) Increase in the number of youth entering postsecondary
48 education or the workforce.
- 49 (3) Parent measures:
- 50 (A) Increase in the number of individuals registered at the
51 WorkForce West Virginia Center;
- 52 (B) Increase in the number of individuals enrolled in job
53 training;
- 54 (C) Increase in the number of individuals completing job
55 training with a certification or credential;
- 56 (D) Increase in the number of individuals placed in
57 employment; and
- 58 (E) Increase in the number of children enrolled in the CHIP
59 program.

CHAPTER 59

**(Com. Sub. for H. B. 4473 - By Delegates Fleischauer,
Manypenny, Poore, Marshall, Iaquina, Skinner and Hamilton)**

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 31, 2014.]

AN ACT to amend and reenact §3-1-5 and §3-1-29 of the Code of West Virginia, 1931, as amended, all relating to establishing voting precincts and changing the composition of standard receiving boards; authorizing the consolidation of certain precincts in certain circumstances; increasing the limit on the size of certain voting precincts to three thousand registered voters in urban areas and one thousand five hundred in rural areas; permitting precincts in urban or rural areas to have fewer than the minimum numbers of registered voters allowed; removing language requiring the West Virginia Office of Legislative Services to consult with county commissions regarding precinct modification; permitting an increase in the size of standard receiving boards; providing an option to have more poll workers and commissioners; and permitting fewer poll workers in precincts during a municipal election where there is no simultaneous state or county election.

Be it enacted by the Legislature of West Virginia:

That §3-1-5 and §3-1-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-5. Voting precincts and places established; number of voters in precincts; precinct map; municipal map.

1 (a) The precinct is the basic territorial election unit. The
2 county commission shall divide each magisterial district of the
3 county into election precincts, shall number the precincts, shall
4 determine and establish the boundaries thereof and shall
5 designate one voting place in each precinct, which place shall be
6 established as nearly as possible at the point most convenient for
7 the voters of the precinct. Each magisterial district shall contain
8 at least one voting precinct and each precinct shall have but one
9 voting place therein.

10 Each precinct within any urban center shall contain not less
11 than three hundred nor more than one thousand five hundred
12 registered voters. Each precinct in a rural or less thickly settled
13 area shall contain not less than two hundred nor more than seven
14 hundred registered voters. A county commission may permit the
15 establishment or retention of a precinct less than the minimum
16 numbers allowed in this subsection upon making a written
17 finding that to do otherwise would cause undue hardship to the
18 voters. If, at any time the number of registered voters exceeds
19 the maximum number specified, the county commission shall
20 rearrange the precincts within the political division so that the
21 new precincts each contain a number of registered voters within
22 the designated limits: *Provided*, That any precincts with polling
23 places that are within a one mile radius of each other on or after
24 July 1, 2014, may be consolidated, at the discretion of the county
25 clerk and county commission into one or more new precincts
26 that contain not more than three thousand registered voters in
27 any urban center, nor more than one thousand five hundred
28 registered voters in a rural or less thickly settled area: *Provided*,
29 *however*, That no precincts may be consolidated pursuant to this
30 section if the consolidation would create a geographical barrier
31 or path of travel between voters in a precinct and their proposed
32 new polling place that would create an undue hardship to voters
33 of any current precinct.

34 If a county commission fails to rearrange the precincts as
35 required, any qualified voter of the county may apply for a writ
36 of mandamus to compel the performance of this duty: *Provided,*
37 That when in the discretion of the county commission, there is
38 only one place convenient to vote within the precinct and when
39 there are more than seven hundred registered voters within the
40 existing precinct, the county commission may designate two or
41 more precincts with the same geographic boundaries and which
42 have voting places located within the same building. The county
43 commission shall designate alphabetically the voters who are
44 eligible to vote in each precinct so created. Each precinct shall
45 be operated separately and independently with separate voting
46 booths, ballot boxes, election commissioners and clerks, and
47 whenever possible, in separate rooms. No two of the precincts
48 may use the same counting board.

49 (b) In order to facilitate the conduct of local and special
50 elections and the use of election registration records therein,
51 precinct boundaries shall be established to coincide with the
52 boundaries of any municipality of the county and with the wards
53 or other geographical districts of the municipality except in
54 instances where found by the county commission to be wholly
55 impracticable so to do. Governing bodies of all municipalities
56 shall provide accurate and current maps of their boundaries to
57 the clerk of any county commission of a county in which any
58 portion of the municipality is located.

59 (c) To facilitate the federal and state redistricting process,
60 precinct boundaries shall be comprised of intersecting
61 geographic physical features or municipal boundaries recognized
62 by the U. S. Census Bureau. For purposes of this subsection,
63 geographic physical features include streets, roads, streams,
64 creeks, rivers, railroad tracks and mountain ridge lines. The
65 county commission of every county shall modify precinct
66 boundaries to follow geographic physical features or municipal

67 boundaries and submit changes to the Joint Committee on
68 Government and Finance by June 30, 2007, and by June 30,
69 every ten calendar years thereafter. The county commission shall
70 also submit precinct boundary details to the U.S. Census Bureau
71 upon request.

72 (d) The county commission shall keep available at all times
73 during business hours in the courthouse at a place convenient for
74 public inspection a map or maps of the county and municipalities
75 with the current boundaries of all precincts.

**§3-1-29. Boards of election officials; definitions, composition of
boards, determination of number and type.**

1 (a) For the purpose of this article:

2 (1) The term “standard receiving board” means those
3 election officials charged with conducting the process of voting
4 within a precinct and consists of no less than five persons, to be
5 comprised as follows:

6 (A) Each precinct shall have at least one team of poll clerks,
7 one team of election commissioners for the ballot box and one
8 additional election commissioner.

9 (B) At the discretion of the county clerk and county
10 commission, any county may add additional teams of poll clerks
11 and commissioners to any precinct, as necessary to fairly and
12 efficiently conduct an election;

13 (2) The term “counting board” means those election officials
14 charged with counting the ballots at the precinct in counties
15 using paper ballots and includes one team of poll clerks, one
16 team of election commissioners and one additional
17 commissioner;

18 (3) The term “team of poll clerks” or “team of election
19 commissioners” means two persons appointed by opposite
20 political parties to perform the specific functions of the office:
21 *Provided, That* no team of poll clerks or team of election
22 commissioners may consist of two persons with the same
23 registered political party affiliation or two persons registered
24 with no political party affiliation; and

25 (4) The term “election official trainee” means an individual
26 who is sixteen or seventeen years of age who meets the
27 requirements of subdivisions (2), (3), (4), (5) and (6), subsection
28 (a), section twenty-eight of this article.

29 (b) For each primary and general election in the county, the
30 county commission shall designate the number and type of
31 election boards for the various precincts according to the
32 provisions of this section. At least eighty-four days before each
33 primary and general election the county commission shall notify
34 the county executive committees of the two major political
35 parties in writing of the number of nominations which may be
36 made for poll clerks and election commissioners.

37 (c) For each municipal election held at a time when there is
38 no county or state election:

39 (1) The governing body of the municipality shall perform the
40 duties of the county commission as provided in this section; and

41 (2) The standard receiving board may, at the discretion of the
42 official charged with the administration of election, consist of as
43 few as four persons, including one team of poll clerks and one
44 team of election commissioners for the ballot box.

CHAPTER 60

**(S. B. 359 - By Senators Beach, Palumbo, Cann,
Cookman, Fitzsimmons, Jenkins, Kirkendoll, Carmichael,
Nohe, Walters, Plymale, Stollings and Snyder)**

[Passed March 8, 2014; in effect from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §3-4A-28 of the Code of West Virginia, 1931, as amended, relating to the post-election canvassing of votes involving electronic voting systems; reducing the number of precincts to be chosen at random for a manual count.

Be it enacted by the Legislature of West Virginia:

That §3-4A-28 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-28. Post-election custody and inspection of vote-recording devices and electronic poll books; canvass and recounts.

- 1 (a) The vote-recording devices, electronic poll books,
- 2 tabulating programs and standard validation test ballots are to
- 3 remain sealed during the canvass of the returns of the election,
- 4 except that the equipment may be opened for the canvass and
- 5 must be resealed immediately thereafter. During the seven-day
- 6 period after the completion of the canvass, any candidate or the
- 7 local chair of a political party may be permitted to examine any
- 8 of the sealed materials: *Provided*, That a notice of the time and
- 9 place of the examination shall be posted at the central counting

10 center before and on the hour of nine o'clock in the morning on
11 the day the examination is to occur and all persons entitled to be
12 present at the central counting center may, at their option, be
13 present. Upon completion of the canvass and after the seven-day
14 period has expired, the vote-recording devices, test results and
15 standard validation test ballots are to be sealed for one year:
16 *Provided, however,* That the vote-recording devices, electronic
17 poll books and all tabulating equipment may be released for use
18 in any other lawful election to be held more than ten days after
19 the canvass is completed and any of the electronic voting
20 equipment or electronic poll books discussed in this section may
21 be released for inspection or review by a request of a circuit
22 court or the Supreme Court of Appeals.

23 (b) In canvassing the returns of the election, the board of
24 canvassers shall examine, as required by subsection (d) of this
25 section, all of the vote-recording devices, electronic poll books,
26 the automatic tabulating equipment used in the election and
27 those voter-verified paper ballots generated by direct recording
28 electronic vote machines, shall determine the number of votes
29 cast for each candidate and for and against each question and, by
30 this examination, shall procure the correct returns and ascertain
31 the true results of the election. Any candidate or his or her party
32 representative may be present at the examination.

33 (c) If any qualified individual demands a recount of the votes
34 cast at an election, the voter-verified paper ballot shall be used
35 according to the same rules that are used in the original vote
36 count pursuant to section twenty-seven of this article. For
37 purposes of this subsection, "qualified individual" means a
38 person who is a candidate for office on the ballot or a voter
39 affected by an issue, other than an individual's candidacy, on the
40 ballot.

41 (d) During the canvass and any requested recount, at least
42 three percent of the precincts are to be chosen at random and the

43 voter-verified paper ballots are to be counted manually.
44 Whenever the vote total obtained from the manual count of the
45 voter-verified paper ballots for all votes cast in a randomly
46 selected precinct:

47 (1) Differs by more than one percent from the automated
48 vote tabulation equipment; or

49 (2) Results in a different prevailing candidate or outcome,
50 either passage or defeat, of one or more ballot issues in the
51 randomly selected precincts for any contest or ballot issue, then
52 the discrepancies shall immediately be disclosed to the public
53 and all of the voter-verified paper ballots shall be manually
54 counted. In every case where there is a difference between the
55 vote totals obtained from the automated vote tabulation
56 equipment and the corresponding vote totals obtained from the
57 manual count of the voter-verified paper ballots, the manual
58 count of the voter-verified paper ballots is the vote of record.

CHAPTER 61

**(Com. Sub. for S. B. 553 - By Senators Edgell,
Fitzsimmons, Cookman, Yost and Beach)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §3-5-24 of the Code of West Virginia, 1931, as amended, relating to certificates of nomination for elected office; stating filing deadlines for certificates of nomination; declaring location where certificates of nomination must be filed; clarifying with whom the certificates are filed and to whom the fees are to be paid; prohibiting untimely filings or untimely fee

payment; and clarifying that this section does not apply to nonpartisan elections.

Be it enacted by the Legislature of West Virginia:

That §3-5-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-24. Filing of nomination certificates; time; location; fees; effect of failure to timely file or pay fee.

1 (a) All certificates nominating candidates for office under
2 section twenty-three of this article shall be filed not later than
3 August 1 preceding the November general election: *Provided,*
4 That for municipal or other elections not held in conjunction
5 with regular state and county general elections, certificates shall
6 be filed not later than ninety days before the date of the election,
7 unless otherwise provided by charter, ordinance or code.

8 (b) The nomination certificate required by this section and
9 section twenty-three of this article shall be filed:

10 (1) In the case of a candidate to be voted for by the voters of
11 the entire state or by any subdivision of the state other than a
12 single county, with the Secretary of State;

13 (2) In the case of all candidates for county and magisterial
14 district offices, including all offices to be filled by the voters of
15 a single county, with the clerk of the county commission; and

16 (3) In the case of candidates for election in a municipality,
17 with the recorder or other official designated by charter or
18 ordinance to perform election responsibilities.

19 (c) Each candidate shall pay the filing fee required by
20 section eight of this article, at the time of the filing of the
21 nomination certificate.

22 (d) If any nomination certificate is not timely filed or if the
23 filing fee is not timely paid, the certificate may not be received
24 by the Secretary of State, the clerk of the county commission or
25 the recorder or other official designated by charter or ordinance
26 to perform municipal election responsibilities, as the case may
27 be.

28 (e) This section is inapplicable to nonpartisan elections.

CHAPTER 62

**(Com. Sub. for H. B. 4147 - By Mr. Speaker (Mr. Miley)
and Delegate Armstead)
[By Request of the Executive]**

[Passed March 8, 2014; in effect from passage.]
[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §15-5-1 and §15-5-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §46A-6J-1, §46A-6J-2, §46A-6J-3 and §46A-6J-4 of said code, all relating to emergency preparedness; revising the policy statement for the Division of Homeland Security and Emergency Management; authorizing the Governor or the Legislature to declare a state of preparedness; limiting a state of preparedness to thirty days; identifying conditions that permit a declaration of a state of preparedness; adding the term “state of preparedness” to where “state of emergency” is referred throughout the code; providing that a state of preparedness has the same effect as a state of emergency for the purposes of the Emergency Management

Assistance Compact and the Statewide Mutual Aid System; revising the definition of “state of emergency” in the West Virginia Consumer Protection Act; defining “state of preparedness” and “large-scale threat” in the West Virginia Consumer Protection Act; requiring the Governor to specifically list items or services subject to unfair pricing provisions in a proclamation declaring a state of preparedness; requiring notification of a state of preparedness by the Secretary of State; and making other technical and stylistic revisions.

Be it enacted by the Legislature of West Virginia:

That §15-5-1 and §15-5-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §46A-6J-1, §46A-6J-2, §46A-6J-3 and §46A-6J-4 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-1. Policy and purpose.

1 In view of the existing and increasing possibility of the
2 occurrence of disasters of unprecedented size and
3 destructiveness and large-scale threats, resulting from terrorism,
4 enemy attack, sabotage or other hostile action, or from fire,
5 flood, earthquakes or other natural or man-made causes and in
6 order to insure that preparations of this state will be adequate to
7 deal with the disasters and large-scale threats, and generally to
8 provide for the common defense and to protect the public peace,
9 health and safety and to preserve the lives and property of the
10 people of the state, it is found and declared to be necessary: (1)
11 To create the Division of Homeland Security and Emergency
12 Management and to authorize the creation of local and regional
13 organizations for emergency services in the political

14 subdivisions of the state; (2) to confer upon the Governor and
15 upon the executive heads of governing bodies of the political
16 subdivisions of the state the emergency powers provided herein;
17 (3) to provide for the rendering of mutual aid among the political
18 subdivisions of the state and with other states and to cooperate
19 with the federal government with respect to the carrying out of
20 emergency services and homeland security functions; and (4) to
21 establish and implement comprehensive homeland security and
22 emergency management plans to deal with such disasters and
23 large-scale threats. It is further declared to be the purpose of this
24 article and the policy of the state that all homeland security and
25 emergency management funds and functions of this state be
26 coordinated to the maximum extent with the Secretary of the
27 Department of Military Affairs and Public Safety and with the
28 comparable functions of the federal government including its
29 various departments and agencies, of other states and localities
30 and of private agencies of every type, so that the most effective
31 preparation and use may be made of the nation's and this state's
32 manpower, resources and facilities for dealing with any disaster
33 or large-scale threat that may occur.

§15-5-6. Emergency powers of Governor.

1 (a) The provisions of this section are operative only during
2 the existence of a state of emergency or state of preparedness.
3 The existence of a state of emergency or state of preparedness
4 may be proclaimed by the Governor or by concurrent resolution
5 of the Legislature if the Governor in the proclamation, or the
6 Legislature in the resolution, finds that an attack upon the United
7 States has occurred or is anticipated in the immediate future, or
8 that a natural or man-made disaster of major proportions has
9 actually occurred or is imminent within the state, or that an
10 emergency exists or may be imminent due to a large-scale threat
11 beyond local control, and that the safety and welfare of the
12 inhabitants of this state require an invocation of the provisions
13 of this section.

14 (b) Any state of emergency or state of preparedness, whether
15 proclaimed by the Governor or by the Legislature, terminates
16 upon the proclamation of the termination by the Governor, or the
17 passage by the Legislature of a concurrent resolution terminating
18 the state of emergency or state of preparedness: *Provided*, That
19 in no case shall a state of preparedness last longer than thirty
20 days.

21 (c) So long as a state of emergency or state of preparedness
22 exists, the Governor has and may exercise the following
23 additional emergency powers:

24 (1) To enforce all laws and rules relating to the provision of
25 emergency services and to assume direct operational control of
26 any or all emergency service forces and helpers in the state;

27 (2) To sell, lend, lease, give, transfer or deliver materials or
28 perform functions relating to emergency services on terms and
29 conditions he or she prescribes and without regard to the
30 limitations of any existing law and to account to the State
31 Treasurer for any funds received for the property;

32 (3) To procure materials and facilities for emergency
33 services by purchase, condemnation under the provisions of
34 chapter fifty-four of this code or seizure pending institution of
35 condemnation proceedings within thirty days from the seizing
36 thereof and to construct, lease, transport, store, maintain,
37 renovate or distribute the materials and facilities. Compensation
38 for property so procured shall be made in the manner provided
39 in chapter fifty-four of this code;

40 (4) To obtain the services of necessary personnel, required
41 during the emergency, and to compensate them for their services
42 from his or her contingent funds or other funds available to him
43 or her;

44 (5) To provide and compel the evacuation of all or part of
45 the population from any stricken or threatened area within the
46 state and to take steps that are necessary for the receipt and care
47 of the evacuees;

48 (6) To control ingress and egress to and from a disaster area
49 or an area where large-scale threat exists, the movement of
50 persons within the area and the occupancy of premises therein;

51 (7) To suspend the provisions of any regulatory statute
52 prescribing the procedures for conduct of state business or the
53 orders, rules of any state agency, if strict compliance therewith
54 would in any way prevent, hinder or delay necessary action in
55 coping with the emergency;

56 (8) To use available resources of the state and of its political
57 subdivisions that are reasonably necessary to cope with the
58 emergency;

59 (9) To suspend or limit the sale, dispensing or transportation
60 of alcoholic beverages, explosives and combustibles;

61 (10) To make provision for the availability and use of
62 temporary emergency housing; and

63 (11) To perform and exercise other functions, powers and
64 duties that are necessary to promote and secure the safety and
65 protection of the civilian population.

66 (d) The declaration of a state of preparedness has the same
67 effect as a declaration of a state of emergency for the purposes
68 of the Emergency Management Assistance Compact established
69 in section twenty-two of this article and the Statewide Mutual
70 Aid Systems set forth in section twenty-eight of this article.

71 (e) The powers granted under this section do not authorize
72 any action that would violate the prohibitions of section
73 nineteen-a of this article.

**CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT
AND PROTECTION ACT.**

**ARTICLE 6J. PROTECTION OF CONSUMERS FROM PRICE
GOUGING AND UNFAIR PRICING
PRACTICES DURING AND SHORTLY
AFTER A STATE OF EMERGENCY OR
STATE OF PREPAREDNESS.**

**§46A-6J-1. Emergencies and natural disasters - Taking unfair
advantage of consumers.**

1 The Legislature finds that during emergencies and major
2 disasters, including, but not limited to, tornadoes, earthquakes,
3 fires, floods, storms or civil disturbances or where a large-scale
4 threat exists, some merchants have taken unfair advantage of
5 consumers by greatly increasing prices for essential consumer
6 goods or services. While the pricing of consumer goods and
7 services is generally best left to the marketplace under ordinary
8 conditions, when a declared state of emergency or state of
9 preparedness results in abnormal disruptions of the market, the
10 public interest requires that excessive and unjustified increases
11 in the prices of essential consumer goods and services be
12 prohibited. It is the intent of the Legislature in enacting this
13 article to protect citizens from excessive and unjustified
14 increases in the prices charged during or shortly after a declared
15 state of emergency or state of preparedness for goods and
16 services that are vital and necessary for the health, safety and
17 welfare of consumers. Further, it is the intent of the Legislature
18 that this article be liberally construed so that its beneficial
19 purposes may be served.

§46A-6J-2. Definitions.

1 (a) “Building materials” means lumber, construction tools,
2 windows and any other item used in the building or rebuilding of
3 property.

4 (b) “Consumer food item” means any article that is used or
5 intended for use for food or drink by a person or animal.

6 (c) "Disaster" means the occurrence or imminent threat of
7 widespread or severe damage, injury, or loss of life or property
8 resulting from any natural or man-made cause, including fire,
9 flood, earthquake, wind, snow, storm, chemical or oil spill or
10 other water or soil contamination, epidemic, air contamination,
11 blight, drought, infestation or other public calamity requiring
12 emergency action.

13 (d) "Emergency supplies" includes, but is not limited to,
14 water, flashlights, radios, batteries, candles, blankets, generators,
15 heaters and temporary shelters.

16 (e) "Essential consumer item" means any article that is
17 necessary to the health, safety and welfare of consumers,
18 including, but not limited to, clothing, diapers, soap, cleaning
19 supplies and toiletries.

20 (f) "Gasoline" means any fuel used to power any motor
21 vehicle or power tool.

22 (g) "Housing" means any rental housing leased on a
23 month-to-month term or the sale of manufactured homes, as that
24 term is defined in section two, article nine, chapter twenty-one
25 of this code.

26 (h) "Large-scale threat" means circumstances which present
27 a reasonable probability that necessary services or public order
28 would be disrupted and effect a significant number of people
29 from either natural or man-made causes.

30 (i) "Medical supplies" includes, but is not limited to,
31 prescription and nonprescription medications, bandages, gauze,
32 isopropyl alcohol and antibacterial products.

33 (j) "Repair or reconstruction services" means any services
34 performed by any person for repairs to residential, commercial
35 or public property of any type that is damaged as a result of a
36 disaster.

37 (k) "State of emergency" means the situation existing during
38 or after the occurrence of a disaster or large-scale threat in which
39 a state of emergency has been declared by the Governor or by
40 the Legislature pursuant to the provisions of section six, article
41 five, chapter fifteen of this code or in which a major disaster
42 declaration or emergency declaration has been issued by the
43 president of the United States pursuant to the provisions of 42 U.
44 S. C. § 5122.

45 (l) "State of preparedness" means the situation existing
46 before a disaster or large-scale threat in which a state of
47 preparedness has been declared by the Governor or by the
48 Legislature pursuant to the provisions of section six, article five,
49 chapter fifteen of this code.

50 (m) "Transportation, freight and storage services" means any
51 service that is performed by any company that contracts to move,
52 store or transport personal or business property or rents
53 equipment or storage space for those purposes.

§46A-6J-3. Prohibited unfair pricing practices.

1 (a) Upon the declaration of a state of emergency or state of
2 preparedness, and continuing for the existence of the state of
3 emergency or state of preparedness or for thirty days following
4 the declaration, whichever period is longer, it is unlawful for any
5 person, contractor, business, or other entity to sell or offer to sell
6 to any person in the area subject to the declaration any consumer
7 food items, essential consumer items, goods used for emergency
8 cleanup, emergency supplies, medical supplies, home heating
9 oil, building materials, housing, transportation, freight and
10 storage services, or gasoline or other motor fuels for a price
11 greater than ten percent above the price charged by that person
12 for those goods or services on the tenth day immediately
13 preceding the declaration of emergency state of preparedness,
14 unless the increase in price is directly attributable to additional
15 costs imposed on the seller by the supplier of the goods or

16 directly attributable to additional costs for labor or materials
17 used to provide the services: *Provided*, That in those situations
18 where the increase in price is attributable to additional costs
19 imposed by the seller's supplier or additional costs of providing
20 the good or service during the state of emergency or state of
21 preparedness, the price is no greater than ten percent above the
22 total of the cost to the seller plus the markup customarily applied
23 by the seller for that good or service in the usual course of
24 business on the tenth day immediately preceding the declaration:
25 *Provided, however*, That where a supplier of gasoline or other
26 motor fuels cannot determine their daily costs, the supplier may
27 sell gasoline or other motor fuels to distributors on any day at a
28 rate not to exceed the average of the Oil Price Information
29 Service's average wholesale rack price for that product at the
30 Montvale/Roanoke, Virginia, Fairfax, Virginia and Pittsburgh,
31 Pennsylvania wholesale racks for the previous day.

32 (b) Upon the declaration of a state of emergency or state of
33 preparedness, and for a period of one hundred eighty days
34 following that declaration, it is unlawful for any contractor to
35 sell or offer to sell any repair or reconstruction services or any
36 services used in emergency cleanup in the area subject to the
37 declaration for a price greater than ten percent above the price
38 charged by that person for those services on the tenth day
39 immediately preceding the declaration, unless the increase in
40 price was directly attributable to additional costs imposed on it
41 by the supplier of the goods or directly attributable to additional
42 costs for labor or materials used to provide the services:
43 *Provided*, That in those situations where the increase in price is
44 attributable to the additional costs imposed by the contractor's
45 supplier or additional costs of providing the service, the price is
46 no greater than ten percent above the total of the cost to the
47 contractor plus the markup customarily applied by the contractor
48 for that good or service in the usual course of business on the
49 tenth day immediately preceding to the declaration of the state
50 of emergency state of preparedness.

51 (c) Any business offering an item for sale at a reduced price
52 ten days immediately prior to the declaration of the state of
53 emergency or state of preparedness may use the price at which
54 it usually sells the item to calculate the price pursuant to
55 subsection (a) or (b) of this section.

56 (d) Whenever the Governor declares a state of preparedness,
57 the provisions of this article shall only apply to those items or
58 services specifically set forth in the proclamation.

59 (e) The price restrictions imposed by this article may be
60 limited or terminated by proclamation of the Governor.

§46A-6J-4. Notification by the Secretary of State; registry.

1 The Secretary of State shall promulgate rules to establish a
2 system by which any person, corporation, trade association or
3 partnership may register to receive notification that a state of
4 emergency or state of preparedness has been declared and that
5 the provisions of this article are in effect. The rules promulgated
6 pursuant to the authority conferred by this section may include
7 a requirement of the payment of fees for registration.

CHAPTER 63

**(H. B. 4346 - By Delegates R. Phillips, Caputo, Andes,
Craig, Sumner, Pethtel, Marcum, Lynch, Tomblin,
Eldridge and Barker)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-5-20, relating to the development of a state plan to reduce carbon pollution and

greenhouse gas production under section 111 of the Clean Air Act; establishing separate standards of performance for carbon dioxide emissions from existing coal-fired electric generating units; establishing separate standards of performance for natural gas-fired electric generating units; and factors and considerations to be reflected in the developed state plan.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §22-5-20, to read as follows:

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-20. Regulating carbon dioxide emissions from existing fossil fuel-fired electric generating units.

1 (a) The Department of Environmental Protection, in
2 consultation with the Department of Environmental Protection
3 Advisory Council, shall establish separate standards of
4 performance for carbon dioxide emissions from existing coal-
5 fired electric generating units in accordance with subsection (b)
6 and from existing natural gas-fired electric generating units in
7 accordance with subsection (c). The standards of performance
8 developed and proposed under any state plan to comply with
9 Section 111 of the Clean Air Act should allow for greater
10 flexibility and take into consideration the additional factors set
11 forth in subsection (d) as a part of any state plan to achieve
12 targeted reductions in greenhouse gas emissions which are
13 equivalent or comparable to the goals and marks established by
14 federal guidelines.

15 (b) *Standards of performance for existing coal-fired electric*
16 *generating units.* — Except as provided under subsection (d), the
17 standard of performance established for existing coal-fired
18 electric generating units under subsection (a) shall be based
19 upon:

20 (1) The best system of emission reduction which, taking into
21 account the cost of achieving the reduction and any non-air
22 quality health and environmental impact and energy
23 requirements, has been adequately demonstrated for coal-fired
24 electric generating units that are subject to the standard of
25 performance;

26 (2) Reductions in emissions of carbon dioxide that can
27 reasonably be achieved through measures undertaken at each
28 coal-fired electric generating unit; and

29 (3) Efficiency and other measures that can be undertaken at
30 each coal-fired electric generating unit to reduce carbon dioxide
31 emissions from the unit without switching from coal to other
32 fuels or limiting the economic utilization of the unit; and

33 (4) Additional regulatory mechanisms that provide flexibility
34 in complying with the standards, including: (A) Emissions
35 trading with credited reduction for any unit that was in operation
36 January 1, 2011, or thereafter, and fleet wide averaging; (B)
37 other alternative implementation measures that are determined
38 to further the interests of West Virginia and its citizens including
39 state programs such as clean energy programs that mandate
40 reduced energy consumption resulting in avoided emissions,
41 emission reductions, or a reduction in the state's carbon dioxide
42 intensity whereby the state shall credit equally based on the
43 output to the generators located in the state that are subject to
44 carbon dioxide performance standard rules under Section 111(d)
45 of the Clean Air Act.

46 (c) *Standards of performance for existing natural gas-fired*
47 *electric generating units.* — Except as provided in subsection
48 (d), the standard of performance established for existing gas-
49 fired electric generating units under subsection (a) shall be based
50 upon:

51 (1) The best system of emission reduction which, taking into
52 account the cost of achieving the reduction and any non-air

53 quality health and environmental impact and energy
54 requirements, has been adequately demonstrated for natural gas-
55 fired electric generating units that are subject to the standard of
56 performance;

57 (2) Reductions in emissions of carbon dioxide that can
58 reasonably be achieved through measures at each natural gas-
59 fired electric generating unit; and

60 (3) Efficiency and other measures that can be undertaken at
61 the unit to reduce carbon dioxide emissions from the unit
62 without switching from natural gas to other lower-carbon fuels
63 or limiting the economic utilization of the unit.

64 (d) *Flexibility in establishing standards of performance.* —
65 In developing a flexible state plan to achieve targeted reductions
66 in greenhouse gas emissions, the Department of Environmental
67 Protection shall endeavor to establish an achievable standard of
68 performance for any existing fossil fuel-fired electric generating
69 unit, and examine whether less stringent performance standards
70 or longer compliance schedules may be implemented or adopted
71 for existing fossil fuel-fired electric generating units in
72 comparison to the performance standards established for new,
73 modified or reconstructed generating units, based on the
74 following:

75 (1) Consumer impacts, including any disproportionate
76 impacts of energy price increases on lower income populations;

77 (2) Non-air quality health and environmental impacts;

78 (3) Projected energy requirements;

79 (4) Market-based considerations in achieving performance
80 standards;

81 (5) The costs of achieving emission reductions due to factors
82 such as plant age, location or basic process design;

83 (6) Physical difficulties with or any apparent inability to
84 feasibly implement certain emission reduction measures;

85 (7) The absolute cost of applying the performance standard
86 to the unit;

87 (8) The expected remaining useful life of the unit;

88 (9) The impacts of closing the unit, including economic
89 consequences such as expected job losses, if the unit is unable to
90 comply with the performance standard;

91 (10) Impacts on the reliability of the system; and

92 (11) Any other factors specific to the unit that make
93 application of a modified or less stringent standard or a longer
94 compliance schedule more reasonable.

95 (e) *State plan requirement.* — The Department of
96 Environmental Protection shall propose or submit to the U. S.
97 Environmental Protection Agency a state plan which includes
98 achievable performance standards for existing sources, and a
99 combination of additional measures designed to meet the U. S.
100 Environmental Protection Agency's guidelines, consistent with
101 the considerations, goals and parameters set forth in this section.

CHAPTER 64

**(S. B. 454 - By Senators Miller, Cookman, D. Hall,
Laird, Tucker, Williams and Snyder)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §22-14-3 of the Code of West Virginia, 1931, as amended, relating to dams; and defining the owner of a dam for purposes of the Dam Control Act.

Be it enacted by the Legislature of West Virginia:

That §22-14-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 14. DAM CONTROL ACT.

§22-14-3. Definition of terms used in article.

1 As used in this article, unless used in a context that clearly
2 requires a different meaning, the term:

3 (a) “Alterations” or “repairs” means only those changes in
4 the structure or integrity of a dam that may affect its safety to be
5 determined by the secretary.

6 (b) “Application for a certificate of approval” means the
7 written application provided to the secretary requesting that a
8 person be issued a certificate of approval.

9 (c) “Appurtenant works” means any structure or facility that
10 is an adjunct of, or connected, appended or annexed to, a dam,
11 including, but not limited to, spillways, a reservoir and its rim,
12 low-level outlet works or water conduits such as tunnels,
13 pipelines and penstocks either through the dam or its abutments.

14 (d) “Authority” means the Water Development Authority
15 provided in section four, article one, chapter twenty-two-c of this
16 code.

17 (e) “Certificate of approval” means the written approval
18 issued by the secretary to a person who has applied to the
19 secretary for a certificate of approval that authorizes the person
20 to place, construct, enlarge, alter, repair or remove a dam and
21 specifies the conditions or limitations under which the work is to
22 be performed by that person.

23 (f)(1) "Dam" means an artificial barrier or obstruction,
24 including any works appurtenant to it and any reservoir created
25 by it, which is or will be placed, constructed, enlarged, altered or
26 repaired so that it does or will impound or divert water and: (A)
27 Is or will be twenty-five feet or more in height from the natural
28 bed of the stream or watercourse measured at the downstream
29 toe of the barrier and which does or can impound fifteen acrefeet
30 or more of water; or

31 (B) Is or will be six feet or more in height from the natural
32 bed of the stream or watercourse measured at the downstream
33 toe of the barrier and which does or can impound fifty acrefeet
34 or more of water;

35 (2) "Dam" does not mean:

36 (A) Any dam owned by the federal government;

37 (B) Any dam for which the operation and maintenance of the
38 dam is the responsibility of the federal government;

39 (C) Farm ponds constructed and used primarily for
40 agricultural purposes, including, but not limited to, livestock
41 watering, irrigation, retention of animal wastes and fish culture
42 and that have no potential to cause loss of human life in the
43 event of embankment failure; or

44 (D) Roadfill or other transportation structures that do not or
45 will not impound water under normal conditions and that have
46 a designed culvert or similar conveyance or capacity that would
47 be used under a state-designed highway at the same location:
48 *Provided*, That the secretary may apply the provisions of section
49 ten of this article for roadfill or other transportation structures
50 that become a hazard to human life or property through the
51 frequent or continuous impoundment of water.

52 (g) "Deficient dam" means a noncoal-related dam that
53 exhibits one or more design, maintenance or operational

54 problems that may adversely affect the performance of the dam
55 over a period of time or during a major storm or other inclement
56 weather that may cause loss of life or property; or a noncoal-
57 related dam that otherwise fails to meet the requirements of this
58 article.

59 (h) "Department" means the Department of Environmental
60 Protection.

61 (i) "Enlargement" means any change in or addition to an
62 existing dam which: (1) Raises the height of the dam; (2) raises
63 or may raise the water storage elevation of the water impounded
64 by the dam; (3) increases or may increase the amount of water
65 impounded by the dam; or (4) increases or may increase the
66 watershed area from which water is impounded by the dam.

67 (j) "Noncompliant dam owner" means an owner who has
68 received two or more orders to repair or remove a deficient dam
69 without completion of the repairs or removal within time frames
70 established by the secretary.

71 (k) "Owner" means any person who:

72 (1) Holds legal possession, ownership or partial ownership
73 of an interest in a dam, its appurtenant works or the real property
74 the dam is situated upon;

75 (2) Has a lease, easement or right-of-way to construct,
76 operate or maintain a dam; or

77 (3) Is a sponsoring organization with existing or prior
78 agreement with the Natural Resources Conservation Service for
79 a dam or its appurtenant works constructed with assistance from
80 Public Law 78-534, Section 13 of the Flood Control Act of 1944;
81 Public Law 83-566, the Watershed Protection and Flood
82 Prevention Act of 1954; the pilot watershed program authorized
83 under the heading "Flood Prevention" of the Department of

84 Agriculture Appropriation Act of 1954, Public Law 156, 67 Stat.
85 214; or Subtitle H of Title XV of the Agriculture and Flood Act
86 of 1981, commonly known as the Resource Conservation and
87 Development Program, 16 U. S. C. § 3451: *Provided*, That an
88 owner is not responsible for or liable for repairs, maintenance or
89 damage arising from the regular operation, maintenance,
90 deficiencies or ownership of the dam, nor shall the owner be
91 cited as a noncompliant dam owner for any deficiencies of the
92 dam, so long as the owner does not intentionally cause, damage
93 or interfere with the regular operation and maintenance of the
94 dam.

95 (l) "Person" means any public or private corporation,
96 institution, association, society, firm, organization or company
97 organized or existing under the laws of this or any other state or
98 country; the State of West Virginia; any state governmental
99 agency; any political subdivision of the state or of its counties or
100 municipalities; a sanitary district; a public service district; a
101 drainage district; a conservation district; a watershed
102 improvement district; a partnership, trust or estate; a person or
103 individual; a group of persons or individuals acting individually
104 or as a group; or any other legal entity. The term "person", when
105 used in this article, includes and refers to any authorized agent,
106 lessee or trustee of any of the foregoing or receiver or trustee
107 appointed by any court for any of the foregoing.

108 (m) "Reservoir" means any basin which contains or will
109 contain impounded water.

110 (n) "Secretary" means the Secretary of the Department of
111 Environmental Protection.

112 (o) "Natural Resources Conservation Service" means the
113 Natural Resources Conservation Service of the United States
114 Department of Agriculture or any successor or predecessor
115 agency, including the Soil Conservation Service.

116 (p) “Water” means any liquid, including any solids or other
117 matter that may be contained in the liquid, which is or may be
118 impounded by a dam.

119 (q) “Water storage elevation” means the maximum elevation
120 that water can reach behind a dam without encroaching on the
121 freeboard approved for the dam under flood conditions.

CHAPTER 65

(Com. Sub. for H. B. 4298 - By Delegates Manchin
and Morgan)

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §6B-2-1 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Ethics Commission; continuing the Ethics Commission; changing the requirements of who can be a member of the Ethics Commission; reducing the number of members on the Ethics Commission to nine; and changing the composition of the membership.

Be it enacted by the Legislature of West Virginia:

That §6B-2-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION;
POWERS AND DUTIES; DISCLOSURE OF
FINANCIAL INTEREST BY PUBLIC
OFFICIALS AND EMPLOYEES;
APPEARANCES BEFORE PUBLIC
AGENCIES; CODE OF CONDUCT FOR
ADMINISTRATIVE LAW JUDGES.**

§6B-2-1. West Virginia Ethics Commission created; members; appointment, term of office and oath; compensation and reimbursement for expenses; meetings and quorum.

1 (a) The West Virginia Ethics Commission is continued. The
2 members of the commission shall be appointed by the Governor
3 with the advice and consent of the Senate.

4 (b) No person may be appointed to the commission or
5 continue to serve as a member of the commission who:

6 (1) Holds elected or appointed office under the government
7 of the United States, the State of West Virginia or any of its
8 political subdivisions;

9 (2) Is a candidate for any political office;

10 (3) Is otherwise subject to the provisions of this chapter
11 other than by reason of his or her appointment to or service on
12 the commission; or

13 (4) Holds any political party office or participates in a
14 campaign relating to a referendum or other ballot issue:
15 *Provided*, That a member may contribute to a political campaign.

16 (c) Commencing July 1, 2014, the Ethics Commission shall
17 consist of the following nine members, appointed with staggered
18 terms:

19 (1) One member who served as a member of the West
20 Virginia Legislature;

21 (2) One member who served as an elected or appointed
22 county official;

23 (3) One member who served as an elected or appointed
24 municipal official;

25 (4) One member who served as an elected county school
26 board member;

27 (5) One member from a rural area; and

28 (6) Four citizen members.

29 (d) Any commission member in office on June 30, 2014,
30 who meets one of the categories for membership set out in
31 subsection (c) of this section, may be reappointed. No more than
32 five members of the commission shall be of the same political
33 party and no more than four members shall be from the same
34 congressional district.

35 (e) After the initial staggered terms, the term of office for a
36 commission member is five years. No member shall serve more
37 than two consecutive full or partial terms. No person may be
38 reappointed to the commission until at least two years have
39 elapsed after the completion of the second consecutive term. A
40 member may continue to serve until a successor has been
41 appointed and qualified.

42 (f) All appointments shall be made by the Governor in a
43 timely manner so as not to create a vacancy for longer than sixty
44 days.

45 (g) Each member must be a resident of this state during the
46 appointment term.

47 (h) Five members of the commission constitutes a quorum.

48 (i) Each member of the commission shall take and subscribe
49 to the oath or affirmation required pursuant to section five,
50 article IV of the Constitution of West Virginia.

51 (j) A member may be removed by the Governor for
52 substantial neglect of duty, gross misconduct in office or a
53 violation of this chapter, after written notice and opportunity for
54 reply.

55 (k) The commission, as appointed on July 1, 2014, shall
56 meet before August 1, 2014, at a time and place to be determined
57 by the Governor, who shall designate a member to preside at that
58 meeting until a chairperson is elected. At the first meeting, the
59 commission shall elect a chairperson and any other officers as
60 are necessary. The commission shall within ninety days after the
61 first meeting adopt rules for its procedures. The commission may
62 use the rules in place on July 1, 2014, until those rules are
63 amended or revoked.

64 (l) Members of the commission shall receive the same
65 compensation and expense reimbursement as is paid to members
66 of the Legislature for their interim duties as recommended by the
67 Citizens Legislative Compensation Commission and authorized
68 by law for each day or portion thereof engaged in the discharge
69 of official duties: *Provided*, That to be eligible for compensation
70 and expense reimbursement, the member must participate in a
71 meeting or adjudicatory session: *Provided, however*, That the
72 member is not eligible for expense reimbursement if he or she
73 does not attend a meeting or adjudicatory session in person.

74 (m) The commission shall appoint an executive director to
75 assist the commission in carrying out its functions in accordance
76 with commission rules and with applicable law. The executive
77 director shall be paid a salary fixed by the commission or as
78 otherwise provided by law. The commission shall appoint and
79 discharge counsel and employees and shall fix the compensation
80 of employees and prescribe their duties. Counsel to the
81 commission shall advise the commission on all legal matters and
82 on the instruction of the commission may commence appropriate
83 civil actions: *Provided*, That no counsel shall both advise the

84 commission and act in a representative capacity in any
85 proceeding.

86 (n) The commission may delegate authority to the
87 chairperson or the executive director to act in the name of the
88 commission between meetings of the commission, except that
89 the commission shall not delegate the power to hold hearings
90 and determine violations to the chairperson or the executive
91 director.

92 (o) The principal office of the commission shall be in the
93 seat of government, but it or its designated subcommittees may
94 meet and exercise its power at any other place in the state.
95 Meetings of the commission shall be public unless:

96 (1) They are required to be private by the provisions of this
97 chapter relating to confidentiality; or

98 (2) They involve discussions of commission personnel,
99 planned or ongoing litigation, and planned or ongoing
100 investigations.

101 (p) Meetings of the commission shall be upon the call of the
102 chairperson and may be conducted by telephonic or other
103 electronic conferencing means: *Provided*, That telephone or
104 other electronic conferencing, and voting are not permitted when
105 the commission is acting as a hearing board under this article, or
106 when the Probable Cause Review Board meets to receive an oral
107 response as authorized by this article. Members shall be given
108 notice of meetings held by telephone or other electronic
109 conferencing in the same manner as meetings at which the
110 members are required to attend in person. Telephone or other
111 electronic conferences shall be electronically recorded and the
112 recordings shall be retained by the commission in accordance
113 with its record retention policy.

CHAPTER 66

**(H. B. 4372 - By Delegates Moore, Campbell, Reynolds,
Azinger and E. Nelson)
[By Request of the Division of Banking]**

[Passed February 24, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 7, 2014.]

AN ACT to amend and reenact §31-17-11 of the Code of West Virginia, 1931, as amended, relating to the filing of reports, data and other information deemed necessary by the Commissioner of Financial Institutions with the Division of Financial Institutions; permitting the commissioner to determine when those reports, data or information are filed; and providing that in addition to the reports not being public records, the filed data and information are also not public records.

Be it enacted by the Legislature of West Virginia:

That §31-17-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 17. WEST VIRGINIA RESIDENTIAL MORTGAGE
LENDER, BROKER AND SERVICER ACT.**

§31-17-11. Records and reports; examination of records; analysis.

- 1 (a) Every lender and broker licensee shall maintain at his or
- 2 her place of business in this state, if any, or if he or she has no
- 3 place of business in this state, at his or her principal place of
- 4 business outside this state, such books, accounts and records
- 5 relating to all transactions within this article as are necessary to
- 6 enable the commissioner to enforce the provisions of this article.
- 7 All the books, accounts and records shall be preserved, exhibited
- 8 to the commissioner and kept available as provided herein for

9 the reasonable period of time as the commissioner may by rules
10 require. The commissioner is hereby authorized to prescribe by
11 rules the minimum information to be shown in the books,
12 accounts and records.

13 (b) Each licensee shall file a report through the Nationwide
14 Mortgage Licensing System and Registry under oath or
15 affirmation concerning his or her business and operations in this
16 state for the defined reporting period established by the
17 Nationwide Mortgage Licensing System and Registry and on a
18 date established by the Nationwide Mortgage Licensing System
19 and Registry. The commissioner may direct that the reports
20 required by this subsection and any other reports, data or
21 information deemed necessary by the commissioner be filed
22 directly with the Division of Financial Institutions on a date to
23 be determined by the commissioner. The reports, data and
24 information filed pursuant to this subsection are not public
25 records and may not be open to public inspection.

26 (c) The commissioner may, at his or her discretion, make or
27 cause to be made an examination of the books, accounts and
28 records of every lender or broker licensee pertaining to primary
29 and subordinate mortgage loans made in this state under the
30 provisions of this article, for the purpose of determining whether
31 each lender and broker licensee is complying with the provisions
32 hereof and for the purpose of verifying each lender or broker
33 licensee's annual report. If the examination is made outside this
34 state, the licensee shall pay the cost thereof in like manner as
35 applicants are required to pay the cost of investigations outside
36 this state.

37 (d) The commissioner shall publish annually a list of the
38 licenses issued under this chapter and shall direct consumers to
39 public information available through the Nationwide Mortgage
40 Licensing System and Registry.

41 (e) The commissioner may enter into cooperative and
42 information-sharing agreements with regulators in other states or

43 with federal authorities to discharge his or her responsibilities
44 under this article.

CHAPTER 67

**(H. B. 4460 - By Delegates Caputo, Swartzmiller, Eldridge,
Storch, Azinger, D. Poling, Iaquinta and Ellem)**

[Passed March 7, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §8-15-26 of the Code of West Virginia, 1931, as amended, relating to violating provisions of the civil service law for paid fire departments; and increasing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §8-15-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND
DEPARTMENTS; CIVIL SERVICE FOR
PAID FIRE DEPARTMENTS.**

§8-15-26. Offenses and penalties.

1 Any individual who makes an appointment or promotion to
2 any position, or selects an individual for employment contrary to
3 the civil service provisions of this article, or willfully refuses or
4 neglects otherwise to comply with, or to conform to, any of the
5 civil service provisions of this article, or violates any of those
6 provisions, is guilty of a misdemeanor.

7 Any commissioner or examiner, or any other individual, who
8 willfully, by himself or herself or in cooperation with one or

9 more persons, defeats, deceives or obstructs any individual with
10 respect to his or her right of examination or registration
11 according to the civil service provisions of this article, or to any
12 rules and regulations prescribed pursuant thereto, or who
13 willfully or corruptly, falsely marks, grades, estimates or reports
14 upon any such examination or proper standing of any individual
15 so examined, registered or certified, pursuant to the civil service
16 provisions of this article, or aids in so doing, or who willfully or
17 corruptly furnishes to any individual any special or secret
18 information, for the purpose of either improving or injuring the
19 prospects or chances of appointment or promotion to any
20 position of any individual so examined, registered or certified,
21 or to be so examined, registered or certified, or who
22 impersonates any other individual, or permit or aid in any
23 manner any other individual to impersonate him or her, in
24 connection with any such examination or registration, or
25 application or request to be examined or registered, is, for each
26 offense, guilty of a misdemeanor.

27 Any person convicted of any of these misdemeanor offenses
28 shall be punished by a fine of not less than \$500, nor more than
29 \$10,000 or by confinement in jail for a term not exceeding one
30 year, or by both fine and confinement, in the discretion of the
31 court.

CHAPTER 68

(S. B. 325 - By Senators Kessler (Mr. President) and M. Hall)
[By Request of the Executive]

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §29-3-11 of the Code of West Virginia,
1931, as amended, relating to the State Fire Marshal; providing

that the State Fire Marshal be appointed by and serve at the will and pleasure of the Fire Commission; exempting the State Fire Marshal from the classified civil service system; and providing requirements to serve as the State Fire Marshal.

Be it enacted by the Legislature of West Virginia:

That §29-3-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-11. Appointment of State Fire Marshal; term of office; removal; salary; qualifications; responsibilities; employees; equipment.

1 (a) The State Fire Commission shall appoint a State Fire
2 Marshal. The State Fire Marshal serves at the will and pleasure
3 of the commission and is exempt from coverage under the
4 classified civil service system.

5 (b) The State Fire Marshal shall have a baccalaureate degree
6 from an accredited four-year college or university, or equivalent
7 experience as determined by the commission, and six years of
8 full-time or part-time equivalent paid or volunteer experience in
9 fire prevention or fire safety including two years in a supervisory
10 capacity in fire prevention and fire safety.

11 (c) The State Fire Marshal, within policy established by the
12 State Fire Commission, shall have all responsibility for the
13 implementation of fire safety programs in this state designated
14 to minimize fire hazards and disaster and loss of life and
15 property from these causes. These responsibilities include, but
16 are not limited to, the establishment and enforcement of fire
17 safety practices throughout the state, preventive inspection and
18 correction activities, coordination of fire safety programs with
19 volunteer and paid fire departments and critical analysis and

20 evaluation of West Virginia's fire loss statistics for
21 determination of problems and solutions.

22 (d) The State Fire Marshal may employ such technical,
23 clerical, stenographic and other personnel and fix their
24 compensation and may incur such expenses as may be necessary
25 in the performance of the duties of his or her office within the
26 appropriation therefor. Employees of the Fire Marshal's office
27 shall be members of the state civil service system and all
28 appointments of the office shall be a part of the classified service
29 under the civil service system.

30 Further, any individual who is employed to conduct criminal
31 investigations or who may become actively involved in matters
32 of a criminal nature shall first be required to pass a civil service
33 examination testing his or her competency and proficiency in the
34 law of arrest, search and seizure and other criminal procedures
35 relating to the powers granted to the State Fire Marshal pursuant
36 to the provisions of this article.

37 (e) The State Fire Marshal and other personnel of the State
38 Fire Marshal's office shall be provided with appropriate office
39 space, furniture, equipment, supplies, stationery and printing in
40 the same manner as provided for other state agencies.



CHAPTER 69

**(Com. Sub. for S. B. 353 - By Senators Williams, Beach,
D. Hall, Miller, Sypolt, Stollings, Tucker and Plymale)**

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §19-1A-3b, relating to

creating the offense of timber theft from state forests; providing the Division of Forestry authority to investigate and enforce timber theft violations in state forests for research and investigative purposes; directing the Division of Forestry to create and maintain a central registry of information relating to timber theft from state forests; and setting forth criminal and civil penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §19-1A-3b, to read as follows:

ARTICLE 1A. DIVISION OF FORESTRY.

§19-1A-3b. Timber theft on state forests; investigations; criminal and civil penalties.

1 (a) Timber theft is the misappropriation or taking of timber
2 belonging to another, or proceeds derived from the sale of
3 timber, either taken without the consent of the owner, or by
4 means of fraudulent conduct, practices or representations, with
5 the intent to deprive the owner permanently of the timber or
6 proceeds derived therefrom.

7 (b) The Division of Forestry has the primary responsibility
8 for the collection, preparation and central registry of information
9 relating to timber theft in state forests. The division has the
10 authority to investigate and enforce the provisions of this section
11 when violations occur in state forests. The division may assist
12 law-enforcement agencies in investigations of violations of the
13 provisions of subsection (b), section forty-eight, article three,
14 chapter sixty-one of this code when requested.

15 (c) *Criminal and civil penalties.* — A person who commits
16 timber theft in a state forest where the timber taken is of a value
17 of \$25,000 or less is guilty of a misdemeanor and shall be fined

18 not more than \$5,000 or confined in jail for not more than one
19 year, or both. A person who commits timber theft in a state
20 forest where the timber taken is of a value of \$25,000 or more is
21 guilty of a felony and shall be fined not more than \$10,000 or
22 imprisoned in a state correctional facility for not more than five
23 years, or both. In addition to any fines and costs that may be
24 assessed by the court, a person convicted of a violation of this
25 section shall be ordered to pay a \$500 civil penalty to the
26 division within sixty days of the entry of a final order of
27 conviction. The civil penalty shall be collected by the court in
28 which the person is convicted and forwarded to the State
29 Treasurer for deposit in the Division of Forestry Fund (3081) for
30 use in administering the provisions of this section.

CHAPTER 70

**(Com. Sub. for S. B. 357 - By Senators Williams, Beach,
D. Hall, Miller, Sypolt, Plymale and Tucker)**

[Passed March 7, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 18, 2014.]

AN ACT to repeal §19-1B-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §19-1B-12a of said code, relating to civil and criminal penalties for violations of the Logging Sediment Control Act pertaining to timber operations; and establishing a violation for failure to reclaim.

Be it enacted by the Legislature of West Virginia:

That §19-1B-12 of the Code of West Virginia, 1931, as amended, be repealed; and that §19-1B-12a of said code be amended and reenacted, all to read as follows:

**ARTICLE 1B. SEDIMENT CONTROL DURING
COMMERCIAL TIMBER
HARVESTING OPERATIONS.**

§19-1B-12a. Criminal and civil penalties.

1 (a) It is illegal for a person to:

2 (1) Conduct timbering operations, purchase timber or buy
3 logs for resale in this state without holding a valid license from
4 the Director of the Division of Forestry, as required by section
5 four of this article;

6 (2) Conduct timbering operations or sever trees for sale at a
7 location in this state without providing the Director of the
8 Division of Forestry with notice of the location where the
9 timbering or harvesting operations are to be conducted, as
10 required by section six of this article;

11 (3) Conduct a timbering operation in this state that is not
12 supervised by a certified logger who holds a valid certificate
13 from the Director of the Division of Forestry, as required by
14 section seven of this article;

15 (4) Continue to conduct timbering operations in violation of
16 a suspension or revocation order that has been issued by the
17 Director of the Division of Forestry or a conference panel under
18 section five, ten or eleven of this article; and

19 (5) Fail to reclaim the real property in accordance with the
20 best management practices set forth by the Division of Forestry
21 and the committee established in subsection (h), section seven of
22 this article.

23 (b) *Criminal and civil penalties.* — A person that violates
24 this section is guilty of a misdemeanor and, upon conviction,
25 shall be fined not less than \$250 nor more than \$500 for each
26 violation. In addition to fines and costs, a person or entity
27 convicted of a violation of this section shall pay a \$500 civil

28 penalty to the division within sixty days. The civil penalty shall
29 be collected by the court in which the person is convicted and
30 forwarded to the State Treasurer for deposit in the Division of
31 Forestry Timber Operations Enforcement Fund (3082) for use in
32 administering the provisions of this article.

33 (c) Each day that a person is in violation of this section
34 constitutes a separate criminal and civil offense.

35 (d) In addition to any other law-enforcement agencies that
36 have jurisdiction over criminal violations, any forester or forest
37 technician employed by the Division of Forestry who, as a part
38 of his or her official duties is authorized by the Director of the
39 Division of Forestry to inspect timbering operations, is
40 authorized to issue citations for any of the listed violations in
41 this article that he or she has witnessed. The limited authority
42 granted to employees of the Division of Forestry to issue
43 citations to enforce the provisions of this section does not
44 include the power to place any individual or person under arrest.

CHAPTER 71

**(Com. Sub. for S. B. 461 - By Senators Kessler (Mr. President),
Williams, Tucker, Plymale, Stollings, Snyder, Cookman,
Palumbo, Fitzsimmons, Beach, Yost, Miller, D. Hall, Jenkins,
McCabe, Wells, Edgell, Barnes, Blair, Boley, Cann, Chafin,
Kirkendoll, Laird, Nohe, Prezioso, Sypolt, Unger, Walters,
Green and M. Hall)**

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 20, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §11-13A-5b, relating to

creation of a Future Fund for conserving a portion of proceeds from certain severance tax revenues for future expenditures; creating an interest-bearing special revenue account; authorizing the West Virginia Investment Management Board to invest moneys of the fund; providing that the principal of the fund be inviolate and that only the investment income may be expended; providing for contributions to the fund from a portion of revenues collected from certain severance taxes; prohibiting appropriation and expenditure from the fund until fiscal year 2020; limiting of amount of appropriation from the fund in certain circumstances; requiring moneys to be expended solely for enhancing education and workforce development; economic development and diversification; infrastructure improvements; tax relief measures for the benefit of the citizens and businesses of the State of West Virginia; and defining certain terms.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-13A-5b, to read as follows:

**ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE
TAX ACT.**

§11-13A-5b. Creation of West Virginia Future Fund; legislative intent; calculation of deposits from excess severance tax revenues; permissible uses of investment income and limitations on expenditures; definitions.

- 1 (a) There is hereby created in the State Treasury a special
- 2 revenue account, designated the West Virginia Future Fund,
- 3 which is an interest-bearing account and may be invested by the
- 4 West Virginia Investment Management Board in the manner
- 5 permitted by the provisions of article six, chapter twelve of this

6 code, with the investment income to be credited to the fund and
7 deposited in the special revenue account.

8 (b) The Legislature declares its intention to use the fund as
9 a means of conserving a portion of the state's revenue derived
10 from the increased revenue proceeds received by the state as a
11 result of any mineral production as well as other funding sources
12 as the Legislature may designate in order to meet future needs.
13 The principal of the fund shall remain inviolate and no portion
14 of the principal may be appropriated, expended or encumbered
15 by the Legislature or any official of the state. Only the
16 investment income of this fund may be appropriated and
17 expended: *Provided*, That no more than the average net
18 investment return for the immediately preceding five fiscal years
19 may be appropriated or expended in any one fiscal year.

20 (c) Notwithstanding any provision of this code to the
21 contrary, for the fiscal year beginning July 1, 2014, and each
22 year thereafter, the secretary of revenue shall cause to be
23 deposited in this fund three percent of the annual severance tax
24 revenue which would otherwise be deposited into the General
25 Revenue Fund which is attributable to the severance of coal,
26 limestone, sandstone, natural gas and oil and collected and
27 received pursuant to the provisions of sections three and three-a,
28 article thirteen-a, chapter eleven of this code: *Provided*, That
29 these deposits shall only be made during fiscal years within
30 which the balance of the Revenue Shortfall Reserve Fund equals
31 or exceeds thirteen percent of the state's General Revenue Fund
32 budget for the fiscal year just ended as determined within sixty
33 days of the end of that prior fiscal year as provided by subsection
34 (b), section twenty, article two, chapter eleven-b of this code:
35 *Provided, however*, That these deposits shall not be made in any
36 fiscal year in which the Governor's General Revenue Fund
37 estimate relies on transfers from the Revenue Shortfall Reserve
38 Fund: *Provided further*, That these deposits shall not be made in
39 any fiscal year for which mid-year spending reductions, hiring
40 freezes, mid-year decreases in appropriations or transfers from

41 the Revenue Shortfall Reserve Fund are necessitated due to
42 revenue shortfalls or would be necessitated if the deposits were
43 to be made: *And provided further*, That amounts that may be
44 deposited into the fund in error or found later to be subject to
45 these limitations shall be redeposited into the General Revenue
46 Fund. The Legislature may, by general appropriation or by
47 designation of other funding sources, deposit into the fund
48 additional moneys as it considers appropriate.

49 (d) In order to maximize the value of the fund, no money
50 from the fund may be expended or appropriated until fiscal year
51 2020 and thereafter the Legislature may appropriate, subject to
52 the limitations provided in this section, from the fund solely for
53 enhancing education and workforce development; economic
54 development and diversification; infrastructure improvements;
55 and tax relief measures for the benefit of the citizens and
56 businesses of the State of West Virginia.

57 (e) For purposes of this section:

58 (1) "Economic development and diversification" means
59 fostering economic growth and development in the state,
60 including commercial, industrial, community, cultural or
61 historical improvements; or preservation or other proper
62 purposes.

63 (2) "Infrastructure improvements" means fostering
64 infrastructure improvements including, but not limited to, post-
65 mining land use, water or wastewater facilities or a part thereof,
66 storm water systems, steam, gas, telephone and
67 telecommunications, broadband development, electric lines and
68 installations, roads, bridges, railroad spurs, drainage and flood
69 control facilities, industrial park development or buildings that
70 promote job creation and retention.

71 (3) "Tax relief" means reducing the tax responsibility of
72 citizens and businesses located in the State of West Virginia,

73 including but not limited to increasing the Homestead
74 Exemption and reducing or eliminating the ad valorem property
75 tax on inventory and equipment held for commercial or
76 industrial use.

CHAPTER 72

**(Com. Sub. for S. B. 535 - By Senators Tucker,
Laird, D. Hall and Miller)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §19-1A-3a of the Code of West Virginia, 1931, as amended, relating to clarifying the definition of “ginseng”.

Be it enacted by the Legislature of West Virginia:

That §19-1A-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1A. DIVISION OF FORESTRY.

§19-1A-3a. Providing criminal penalties for the illegal possession of uncertified ginseng.

1 (a) (1) The Legislature finds that ginseng trade must be
2 controlled in order to protect the survival of wild ginseng as
3 evidenced by its listing in Appendix II of the Convention on
4 International Trade in Endangered Species of Wild Fauna and
5 Flora. It is the policy of this state to regulate the commerce in
6 ginseng in a manner that protects the survival of wild ginseng.

7 (2) For purposes of this section:

8 (A) "Certified" means the ginseng carries a certificate of
9 origin issued by the director which allows the export from West
10 Virginia of ginseng legally harvested in this state;

11 (B) "Commercial use" means to sell or to use ginseng for
12 financial gain;

13 (C) "Cultivated ginseng" means ginseng that is purposefully
14 planted in beds under artificial shade using standard horticultural
15 practices such as mechanical tillage, fertilization, weed control,
16 irrigation and pesticides;

17 (D) "Dealer" means a person who purchases ginseng for
18 purposes of commercial use;

19 (E) "Digger" means a person who digs, collects or gathers
20 wild ginseng by searching woodlands to find the plants;

21 (F) "Director" means the Director of the Division of
22 Forestry;

23 (G) "Division" means the Division of Forestry;

24 (H) "Export" means the movement of ginseng from state to
25 state as well as sending it abroad;

26 (I) "Ginseng" means whole, sliced or parts of roots of
27 cultivated ginseng, woods grown ginseng, wild simulated
28 ginseng and wild ginseng, excluding manufactured parts,
29 products, and derivatives, such as powders, pills, extracts, tonics,
30 teas and confectionary;

31 (J) "Green ginseng" means a fresh wild ginseng root that has
32 not been intentionally subjected to a drying process and from
33 which most natural moisture has not been removed by drying.

34 (K) "Grower" means a person who purposefully plants and
35 grows cultivated ginseng, woods-grown ginseng or wild

36 simulated ginseng for purposes of commercial use: *Provided*,
37 That a grower does not include a digger who plants wild ginseng
38 seed from the wild ginseng plants he or she digs, collects or
39 gathers;

40 (L) "Harvest" means to dig, collect or gather ginseng;

41 (M) "Person" means an individual, corporation, partnership,
42 firm or association;

43 (N) "Rootlets" means woods-grown or wild simulated one
44 to two-year old ginseng roots commonly sold as transplants to
45 growers;

46 (O) "Wild ginseng" means *Panax quinquefolius* L. that is not
47 grown or nurtured by a person regardless of the putative origin
48 of the plants: *Provided*, That wild ginseng may originate from
49 seeds planted by a digger at the same site from which the digger
50 harvests the wild ginseng;

51 (P) "Wild simulated ginseng" means ginseng that is
52 purposefully planted in the woods without a bed being prepared
53 and without the use of any chemical weed, disease or pest
54 control agents;

55 (Q) "Woods-grown ginseng" means ginseng that is
56 purposefully planted in beds prepared in the woods in a manner
57 that uses trees to provide necessary shade and which may be
58 grown with the use of chemical or mechanical weed, disease or
59 pest control agents.

60 (3) (A) The Division of Forestry shall regulate the growing,
61 digging, collecting, gathering, possessing and selling of ginseng.

62 (B) The division may propose rules for legislative approval
63 in accordance with article three, chapter twenty-nine-a of this
64 code to implement the provisions of this section including the
65 amount of any permit fee.

66 (C) For purposes of regulating the growing, harvesting and
67 commercial use of ginseng, a division employee may enter upon
68 any public or private property, other than a dwelling house, at
69 reasonable times, in order to inspect the ginseng operation or
70 records. A person may not obstruct or hinder the employee in the
71 discharge of his or her enforcement duties.

72 (D) All moneys received from permit fees and civil penalties
73 assessed pursuant to this section shall be credited to the special
74 account within the Division of Forestry to be used for the
75 purposes set forth in section three of this article.

76 (E) The site plats required to be submitted to the division
77 and other information identifying the specific location of ginseng
78 plants are not open to public inspection pursuant to article one,
79 chapter twenty-nine-b of this code since they disclose
80 information having a significant commercial value.

81 (b) (1) The digging season for wild ginseng begins on
82 September 1, and ends on November 30, of each year. It is
83 unlawful for a person to dig, collect or gather wild ginseng
84 between December 1, and the thirty-first day of August of the
85 following year.

86 (2) A person digging, collecting or gathering wild ginseng
87 upon the enclosed or posted lands of another person shall first
88 obtain written permission from the landowner, tenant or agent,
89 and shall carry the written permission on his or her person while
90 digging, collecting or gathering wild ginseng upon the enclosed
91 or posted lands. It is unlawful to dig, collect or gather wild
92 ginseng from the property of another without the written
93 permission of the landowner.

94 (3) A person digging, collecting or gathering wild ginseng
95 shall plant the seeds from the wild ginseng plants at the time and
96 at the site from which the wild ginseng is harvested. It is
97 unlawful to remove wild ginseng seeds from the site of
98 collection.

99 (4) It is unlawful to dig, collect or gather wild ginseng less
100 than five years old.

101 (5) A person may not rescue wild ginseng plants endangered
102 by ground-disturbing activities unless he or she has first obtained
103 a moving permit from the division. The person shall provide the
104 reason for moving the plants, the current location of the plants,
105 the proposed new planting site and other information required by
106 the division.

107 (6) It is unlawful to plant ginseng or ginseng seed and to dig,
108 collect or gather ginseng on West Virginia public lands, except
109 by land grant university researchers performing research or
110 demonstration projects regarding the growing, cultivating or
111 harvesting of ginseng: *Provided*, That it is unlawful for anyone
112 to plant ginseng or ginseng seed and to dig, collect or gather
113 ginseng on state wildlife management areas or on state parks.

114 (c) (1) A person may not act as a grower unless he or she has
115 obtained a grower's permit from the division.

116 (2) Prior to planting cultivated, woods-grown or wild
117 simulated ginseng, a grower shall:

118 (A) Submit to the director a plat of the exact planting
119 location prepared by a licensed surveyor or a registered forester
120 as defined in article nineteen, chapter thirty of this code, along
121 with information verifying the name of the landowner: *Provided*,
122 That if the grower is not the landowner, the grower shall also
123 submit written permission from the landowner to grow and
124 harvest cultivated, woods-grown or wild simulated ginseng on
125 that property.

126 (B) Obtain a written determination from the director
127 certifying that the planting area is free from wild ginseng; and

128 (C) Submit other information required by the division.

129 (3) A grower shall keep accurate and complete records on
130 each ginseng planting on forms provided by the division. The
131 records shall be available for inspection by a division employee
132 and shall be submitted to the division at intervals established by
133 rule by the division. A grower shall maintain records for a period
134 of not less than ten years. The information required to be kept
135 shall include:

136 (A) The origin of ginseng seed, rootlets or plants;

137 (B) The location of purposefully planted cultivated, wild
138 simulated and woods-grown ginseng and a site plat of the
139 planting;

140 (C) The original of the director's determination that the site
141 was free from wild ginseng at the time of planting;

142 (D) The date each site was planted;

143 (E) The number of pounds of seeds planted, or the number
144 and age of rootlets, or both; and

145 (F) Other information required by the division.

146 (4) A grower may harvest cultivated ginseng on or after the
147 effective date of this section throughout the year.

148 (5) A grower may harvest wild simulated and woods-grown
149 ginseng from September 1, through November 30, of each year.

150 (6) It is unlawful for a person to dig, collect or gather wild
151 simulated and woods-grown ginseng between December 1 and
152 August 31.

153 (7) It is unlawful to dig, collect and gather wild simulated
154 and woods-grown ginseng less than five years old.

155 (8) A grower shall comply with the certification procedures
156 set forth in subdivision (f) of this section.

157 (9) For planting locations in existence prior to July 1, 2005,
158 provide proof of having purchased ginseng seed, rootlets or
159 plants for planting for a minimum of one or more of the five
160 years immediately prior to July 1, 2005, and sign a certification
161 that to the best of his or her knowledge, no wild ginseng existed
162 on the site at the time the ginseng was planted: *Provided*, That
163 no grower may certify a planting location in existence prior to
164 July 1, 2005, under this provision after December 31, 2009.

165 (d) (1) A person may not act as a dealer unless he or she has
166 obtained a dealer's permit from the division.

167 (2) A dealer shall keep accurate and complete records on his
168 or her ginseng transactions on forms provided by the division. A
169 dealer is required to maintain a record of all persons, including
170 a digger, grower and dealer, involved in each purchase or sale
171 transaction and shall include the name, address, permit number
172 and a copy of each ginseng certification issued by the division.
173 All records shall be available for inspection by a division
174 employee. A dealer shall maintain records for a period of not
175 less than ten years. In addition, a dealer is required to report the
176 following information to the division monthly:

177 (A) The date of the transaction;

178 (B) The type of ginseng, whether wild, cultivated, woods-
179 grown or wild simulated ginseng;

180 (C) Whether the ginseng is dried or green at the time of the
181 transaction;

182 (D) The weight of the ginseng;

183 (E) The county from which the ginseng was harvested;

184 (F) The identification number from the state ginseng
185 certification; and

186 (G) Other information required by the division.

187 (3) A dealer shall include a West Virginia export certificate,
188 numbered by the division, with each shipment of ginseng
189 transported out-of-state.

190 (4) A dealer may not import out-of-state ginseng into this
191 state unless the ginseng is accompanied by a valid export
192 certificate issued by the state of origin. A dealer must return
193 uncertified ginseng to the state of origin within fifteen calendar
194 days.

195 (5) It is unlawful to include false information on any
196 certificate or record required to be completed or maintained by
197 this section. All ginseng harvested in West Virginia must be
198 certified by the director before being transported or shipped out-
199 of-state.

200 (e) (1) A person may not act as a grower or act as a dealer
201 unless he or she has been issued the appropriate permit by the
202 division. A person must obtain a separate permit for each
203 activity. Permit applications shall be made on forms provided by
204 the division. The application for a permit shall be accompanied
205 by the applicable permit fee. The division shall assign a permit
206 number to each person granted a permit and it shall keep records
207 of the permits issued.

208 (2) Permits expire on December 31 of each year for growers
209 and August 31 of each year for dealers. All permits must be
210 renewed annually. Renewal forms will be mailed to current
211 permit holders. The failure to receive a renewal form does not
212 relieve the permit holder of the obligation to renew. The division
213 may require a late fee when renewal is received more than sixty
214 days after the expiration of the current permit.

215 (3) The permit holder shall notify the division of any
216 changes in the information on the permit.

217 (f) All ginseng harvested in this state shall be certified as to
218 type, whether wild, cultivated, woods grown or wild simulated,
219 and to its origin, weight and lawful harvest. Other information
220 may be required for ginseng to be certified by the division to
221 comply with the Convention on International Trade in
222 Endangered Species of Wild Fauna and Flora to allow for its
223 export: *Provided*, That live one and two-year old cultivated,
224 woods-grown or wild simulated rootlets sold by growers for
225 propagation purposes within the United States are not regarded
226 as harvested and are exempt from the certification requirement.
227 All ginseng, except cultivated ginseng, must be certified or
228 weight receipted by April 1 of the year following harvest:
229 *Provided, however*, That no ginseng may be certified between
230 January 1 through March 31 unless the person requesting
231 certification displays a valid permit. It is unlawful for a person
232 to have in his or her possession uncertified wild ginseng from
233 April 1 through August 31.

234 (g) The director shall propose rules for legislative approval
235 in accordance with article three, chapter twenty-nine-a of this
236 code designed to implement the ginseng certification process.

237 (h) The division may, by order entered in accordance with
238 the provisions of article five, chapter twenty-nine-a of this code,
239 deny, suspend or revoke the permit of a grower or dealer and
240 may invalidate an export certificate completed by a dealer when
241 the division finds that a grower or dealer has violated any
242 provision of this section or a legislatively approved rule.

243 (i) The division may assess a civil penalty against a person
244 who violates any provision of this section or a provision of a
245 legislatively approved rule. The division may assess a monetary
246 penalty of not less than \$100 nor more than \$500.

247 (j) Any person violating a provision of this section is guilty
248 of a misdemeanor and, upon conviction thereof, shall be fined
249 not less than \$100 nor more than \$500 for the first offense, and

250 for each subsequent offense, shall be fined not less than \$500 nor
 251 more than \$1,000, or confined in jail not more than six months,
 252 or both. The court, in imposing the sentence of a person
 253 convicted of an offense under this section, shall order the person
 254 to forfeit all ginseng involved in the offense.

255 (k) It is the duty of the prosecuting attorney of the county in
 256 which the violation occurred to represent the division, to institute
 257 proceedings and to prosecute the person charged with the
 258 violation.

CHAPTER 73

**(Com. Sub. for 4335 - By Delegates L. Phillips, Campbell,
 Guthrie, Poore, Staggers, Moore, Perdue, M. Poling,
 Eldridge, Fleischauer and Marshall)**

[Passed March 8, 2014; in effect ninety days from passage.]
 [Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-19, relating to a child's right to nurse; and establishing as the public policy of this state that nursing in a public place is socially acceptable.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §16-1-19, to read as follows:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-19. Child's right to nurse; location where permitted; right protected.

1 (a) The Legislature finds that breast feeding is an important,
2 basic act of nurturing that is protected in the interests of maternal
3 and child health.

4 (b) Notwithstanding any provision of this code to the
5 contrary, a mother may breast feed a child in any location open
6 to the public.

CHAPTER 74

**(Com. Sub. for S. B. 602 - By Senators Stollings,
Beach, Jenkins and Laird)**

[Passed March 6, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-1C-1, §16-1C-2, §16-1C-3, §16-1C-4 and §16-1C-5, all relating generally to requiring health care providers to wear identification badges; providing definitions; establishing identification badge requirement; setting forth exemptions; providing for applicability; and granting rule-making authority.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-1C-1, §16-1C-2, §16-1C-3, §16-1C-4 and §16-1C-5, all to read as follows:

ARTICLE 1C. HEALTH CARE PROVIDER TRANSPARENCY ACT.

§16-1C-1. Definitions.

1 (a) “Direct patient care” means health care that provides for
2 the physical, diagnostic, emotional or rehabilitation needs of a

3 patient or health care that involves examination, treatment or
4 preparation for diagnostic tests or procedures.

5 (b) "Employee" means an employee or contractor of a health
6 care provider or a person who is granted privileges by a health
7 care provider who delivers direct patient care.

8 (c) "Health care provider" means an individual, partnership,
9 corporation, facility, hospital or institution licensed or certified
10 or authorized by law to provide professional health care service
11 in this state to a patient during that patient's medical, remedial
12 or behavioral health care, treatment or confinement.

13 (d) "Secretary" means the Secretary of the West Virginia
14 Department of Health and Human Resources. The secretary may
15 define in rules any term or phrase used in this article which is not
16 expressly defined.

§16-1C-2. Identification badge requirements.

1 Notwithstanding any other provision of this code, an
2 employee shall wear an identification badge when providing
3 direct patient care. The identification badge shall be worn in a
4 conspicuous manner so as to be visible and apparent.

§16-1C-3. Exceptions.

1 (a) Notwithstanding section two of this article, the following
2 shall apply:

3 (1) An employee shall not be required to wear an
4 identification badge while delivering direct patient care if it is
5 not clinically feasible.

6 (2) The last name of the employee may be omitted or
7 concealed from an identification badge when delivering direct
8 patient care if the employee is concerned for his or her safety.

9 (b) An employee may petition the secretary for an exemption
10 from the requirements of this article for reasons that are not set
11 forth in this section.

12 (c) An employee providing direct patient care in a behavioral
13 health care setting may not be required to wear an identification
14 badge.

§16-1C-4. Rules.

1 The Secretary of the Department of Health and Human
2 Resources, in consultation with appropriate health care provider
3 professional licensing boards, shall propose rules for legislative
4 approval in accordance with the provisions of chapter
5 twenty-nine-a of this code to implement the provisions of this
6 article. These rules shall include, at a minimum:

7 (1) The contents of the identification badge, which shall at
8 least include the name of the employee and title of the employee;

9 (2) The title to be used to identify employee licensure
10 information;

11 (3) The appearance of the identification badge, which shall
12 have the title of the employee as large as possible in block type:
13 *Provided*, That health care facilities providing identification
14 badges prior to enactment of this article shall not be required to
15 issue new badges;

16 (4) The process and procedure for seeking an exemption
17 from the requirements of this article; and

18 (5) Such other rules as may be deemed necessary to
19 effectuate the purposes of this article.

§16-1C-5. Applicability.

1 Section two of this article applies to employees of health
2 care providers who employ at least three licensed practitioners
3 or employ more than ten employees as of July 1, 2016.

CHAPTER 75

**(H. B. 4332 - By Delegates Border, Anderson, Ellem,
Azinger, Perdue, D. Poling, Stagers,
Ellington, Cowles, Fleischauer and Lane)**

[Passed March 7, 2014; in effect from passage.]
[Approved by the Governor on March 31, 2014.]

AN ACT to amend and reenact §16-2D-5c of the Code of West Virginia, 1931, as amended, relating to extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds.

Be it enacted by the Legislature of West Virginia:

That §16-2D-5c of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-5c. Exception permitting development and operation of certain nursing beds by a nonprofit community health care organization.

1 (a) Notwithstanding any provision of law to the contrary and
2 any rule issued by the state agency, a nonprofit community
3 group designated by a county commission is exempt from the
4 existing moratorium on nursing home beds established in
5 subsection (g), section five of this article, in order to develop and
6 operate a nursing home bed facility in any county in West
7 Virginia that currently is without a nursing home if:

8 (1) The nursing bed facility will be located in the county of
9 that county commission;

10 (2) The nursing bed facility will be operated on real property
11 owned by the nonprofit community health care organization and
12 designated by the county commission;

13 (3) The nursing bed facility will exist in a county which has
14 been continuously without nursing home beds since prior to the
15 nursing home bed moratorium was enacted;

16 (4) The nonprofit community group develops and operates
17 no more than thirty-six nursing home beds pursuant to this
18 section; and

19 (5) The nonprofit community group applies for a license to
20 operate the nursing home by July 1, 2016.

21 (b) The establishment of a nursing home and nursing beds
22 under this section requires a certificate of need and is subject to
23 all certificate of need laws and rules.

CHAPTER 76

(Com. Sub. for S. B. 619 - By Senator Tucker)

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 31, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2D-5d, relating to creating an exemption to the certificate of need process for certain critical access hospitals in certain situations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §16-2D-5d, to read as follows:

ARTICLE 2D. CERTIFICATE OF NEED.**§16-2D-5d. Exception for reopened critical access hospitals.**

1 Notwithstanding any provision of law to the contrary and
 2 any rule issued by the state agency, a critical access hospital,
 3 designated by the state as a critical access hospital after meeting
 4 all federal eligibility criteria, previously licensed as a hospital
 5 and subsequently closed is not required to apply for or obtain a
 6 certificate of need if it reopens within ten years of its closure.

CHAPTER 77

**(Com. Sub. for H. B. 4312 - By Delegates Staggers
and Lawrence)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, by adding thereto a new section, designated §16-4C-6c; and to amend and reenact §22A-10-1 of said code, all relating to creating a certification for emergency medical technician-industrial; establishing the certification and recertification requirements; specifying the term of the certification; restricting the practice of emergency medical technician-industrial; clarifying that emergency medical technician-industrial certification replaces emergency medical technician-miner certification; allowing the emergency medical technician-miner certification courses and examinations to be used for emergency medical technician-industrial certification; and authorizing rule-making authority for Commissioner of Bureau for Public Health in consultation with the Board of Miner Training, Education and Certification.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, be amended by adding thereto a new section, designated §16-4C-6c; and that §22A-10-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-6c. Certification requirements for emergency medical technician-industrial.

1 (a) Commencing July 1, 2014, an applicant for certification
2 as an emergency medical technician-industrial shall:

3 (1) Be at least eighteen years old;

4 (2) Apply on a form prescribed by the Commissioner;

5 (3) Pay the application fee;

6 (4) Possess a valid cardiopulmonary resuscitation (CPR)
7 certification;

8 (5) Successfully complete an emergency medical technician-
9 industrial education program authorized by the Commissioner in
10 consultation with the Board of Miner Training, Education and
11 Certification; and

12 (6) Successfully complete emergency medical technician-
13 industrial cognitive and skills examinations authorized by the
14 Commissioner in consultation with the Board of Miner Training,
15 Education and Certification.

16 (b) The emergency medical technician-industrial
17 certification is valid for three years.

18 (c) A certified emergency medical technician-industrial is
19 only authorized to practice during his or her regular employment
20 on industrial property. For the purposes of this section,
21 “industrial property” means property being used for production,
22 extraction or manufacturing activities.

23 (d) To be recertified as an emergency medical technician-
24 industrial, a certificate holder shall:

25 (1) Apply on a form prescribed by the commissioner;

26 (2) Pay the application fee;

27 (3) Possess a valid cardiopulmonary resuscitation (CPR)
28 certification;

29 (4) Successfully complete one of the following:

30 (A) A one-time thirty-two hour emergency medical
31 technician-industrial recertification course authorized by the
32 commissioner in consultation with the Board of Miner Training,
33 Education and Certification; or

34 (B) Three annual eight-hour retraining and testing programs
35 authorized by the commissioner in consultation with the Board
36 of Miner Training, Education and Certification; and

37 (5) Successfully complete emergency medical technician-
38 industrial cognitive and skills recertification examinations
39 authorized by the commissioner in consultation with the Board
40 of Miner Training, Education and Certification.

41 (e) Commencing July 1, 2014, the certification for
42 emergency medical technician-miner, also known as emergency
43 medical technician-mining, shall be known as the certification
44 for emergency medical technician-industrial, and the
45 certification is valid until the original expiration date, at which

46 time the person may recertify as an emergency medical
47 technician-industrial pursuant to this section.

48 (f) The education program, training, courses, and cognitive
49 and skills examinations required for certification and
50 recertification as an emergency medical technician-miner, also
51 known as emergency medical technician-mining, in existence on
52 January 1, 2014, shall remain in effect for the certification and
53 recertification of emergency medical technician-industrial until
54 they are changed by legislative rule by the commissioner in
55 consultation with the Board of Miner Training, Education and
56 Certification.

57 (g) The administration of the emergency medical technician-
58 industrial certification and recertification program by the
59 commissioner shall be done in consultation with the Board of
60 Miner Training, Education and Certification.

61 (h) The commissioner shall propose rules for legislative
62 approval, pursuant to the provisions of article three, chapter
63 twenty-nine-a of this code, in consultation with the Board of
64 Miner Training, Education and Certification, and may propose
65 emergency rules, to:

66 (1) Establish emergency medical technician-industrial
67 certification and recertification courses and examinations;

68 (2) Authorize providers to administer the certification and
69 recertification courses and examinations, including mine training
70 personnel, independent trainers, community and technical
71 colleges, and Regional Educational Service Agencies (RESA):
72 *Provided*, That the mine training personnel and independent
73 trainers must have a valid cardiopulmonary resuscitation (CPR)
74 certification and must be an approved MSHA or OSHA certified
75 instructor;

76 (3) Establish a fee schedule: *Provided*, That the application
77 fee may not exceed ten dollars and there shall be no fee for a
78 certificate; and

79 (4) Implement the provisions of this section.

CHAPTER 22A. MINERS' HEALTH, SAFETY AND TRAINING.

ARTICLE 10. EMERGENCY MEDICAL PERSONNEL.

§22A-10-1. Emergency personnel in coal mines.

1 (a) Emergency medical services personnel must be employed
2 on each shift at every mine that:

3 (1) Employs more than ten employees; and

4 (2) Has more than eight persons present on the shift.

5 (b) The emergency medical services personnel must be
6 employed at their regular duties at a central location or, when
7 more than one person is required pursuant to the provisions of
8 subsection(d) of this section, at a location which provides for
9 convenient, quick response to an emergency. The emergency
10 medical services personnel must have available to them at all
11 times such equipment prescribed by the Director of the Office of
12 Miners' Health, Safety and Training, in consultation with the
13 Commissioner of the Bureau for Public Health.

14 (c) "Emergency medical services personnel" means any
15 person certified by the Commissioner of the Bureau for Public
16 Health, or authorities recognized and approved by the
17 commissioner, to provide emergency medical services as
18 authorized in article four-c, chapter sixteen of this code,
19 including emergency medical technician-industrial.

20 (d) At least one emergency medical services personnel shall
21 be employed at a mine for every fifty employees or any part

22 thereof who are engaged at any time, in the extraction,
23 production or preparation of coal.

24 (e) Commencing July 1, 2014, the certification for
25 emergency medical technician-miner, also known as emergency
26 medical technician-mining, shall be known as the certification
27 for emergency medical technician-industrial, and the
28 certification is valid until the original expiration date, at which
29 time the person may recertify as an emergency medical
30 technician-industrial pursuant to section six-c, article four-c,
31 chapter sixteen of this code.

32 (f) A person wanting to be certified or recertified as an
33 emergency medical technician-industrial must comply with the
34 provisions of section six-c, article four-c, chapter sixteen of this
35 code.

CHAPTER 78

**(Com. Sub. for H. B. 3108 - By Delegates Campbell,
Ellington and Perdue)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5C-21, relating to prohibiting employment by a nursing home of a person convicted of certain crimes unless a variance has been granted by the secretary; and authorizing the Secretary of the Department of Health and Human Resources to propose legislative rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §16-5C-21, to read as follows:

ARTICLE 5C. NURSING HOMES.**§16-5C-21 Employment restrictions.**

1 (a) Notwithstanding a legislative rule or provider manual
2 issued by the department, a person cannot be employed by a
3 nursing home unless granted a variance by the secretary, or his
4 or her designee, if convicted of:

5 (1) Abduction or kidnapping;

6 (2) Any violent felony crime including, but not limited to,
7 rape, sexual assault, homicide, felonious physical assault or
8 felonious battery;

9 (3) Child or adult abuse or neglect;

10 (4) Crimes which involve the exploitation of a child or an
11 incapacitated adult;

12 (5) Felony domestic battery or domestic assault;

13 (6) Felony arson;

14 (7) Felony or misdemeanor crime against a child or
15 incapacitated adult which causes harm;

16 (8) Felony drug-related offenses;

17 (9) Felony driving under the influence of drugs or alcohol;

18 (10) Hate crimes;

19 (11) Murder or manslaughter;

20 (12) Neglect or abuse by a caregiver;

21 (13) Pornography crimes involving children or incapacitated
22 adults including, but not limited to, use of minors or
23 incapacitated adults in filming sexual explicit conduct,
24 distribution and exhibition of material depicting minors or
25 incapacitated adults in sexually explicit conduct or sending,
26 distributing, exhibiting, possessing, displaying or transporting
27 material by a parent, guardian or custodian, depicting a minor or
28 incapacitated adult engaged in sexually explicit conduct;

29 (14) Purchase or sale of a child;

30 (15) Sexual offenses including, but not limited to, incest,
31 sexual abuse or indecent exposure;

32 (16) Felony or misdemeanor involving financial exploitation
33 of a minor or elderly person;

34 (17) Felony offense related to fraud, theft, embezzlement,
35 breach of fiduciary responsibility or other financial misconduct
36 in connection with the delivery of a health care item or service,
37 or with respect to any act or omission in a health care program
38 operated or financed, in whole or in part, by any federal, state or
39 local government agency; or

40 (18) Any criminal offense related to the delivery of an item
41 or service under Medicare or a state health care program.

42 (b) The secretary shall propose rules for legislative approval
43 in accordance with article three, chapter twenty-nine-a of this
44 code, to allow persons to appeal decisions, demonstrate
45 rehabilitation, request a review of their initial negative
46 determinations and to implement any variance procedure as may
47 be required by state or federal law.

CHAPTER 79

**(Com. Sub. for H. B. 4287 - By Delegates Fleischauer,
Marshall, Barill, Manypenny, Fragle, Campbell, Pasdon,
Mr. Speaker (Mr. Miley), White, Pethtel and Tomblin)**

[Passed March 6, 2014; in effect from passage.]
[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §16-5O-2, §16-5O-3, §16-5O-5, §16-5O-6, §16-5O-7, §16-5O-8, §16-5O-10 and §16-5O-12 of the Code of West Virginia, 1931, as amended, all relating to the performance of certain functions by approved medication assistive personnel; defining terms; updating terminology; requiring the authorizing agency to collaborate with the Board of Respiratory Care; adding requirements to be completed by a registered nurse to become a trainer; requiring the department to maintain a list of unauthorized individuals; and changing the membership of the advisory committee.

Be it enacted by the Legislature of West Virginia:

That §16-5O-2, §16-5O-3, §16-5O-5, §16-5O-6, §16-5O-7, §16-5O-8, §16-5O-10 and §16-5O-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 50. APPROVED MEDICATION ASSISTIVE PERSONNEL.

§16-5O-2. Definitions.

- 1 As used in this article the following definitions apply:
- 2 (a) "Administration of medication" means:
 - 3 (1) Assisting a person in the ingestion, application or
 - 4 inhalation of medications, including prescription drugs, or in the

5 use of universal precautions or rectal or vaginal insertion of
6 medication, according to the legibly written or printed directions
7 of the attending physician or the health care professional in
8 accordance with subdivision sixty-one, section four, article five,
9 chapter thirty of this code, or as written on the prescription label;
10 and

11 (2) Making a written record of such assistance with regard
12 to each medication administered, including the time, route and
13 amount taken. However, for purposes of this article,
14 “administration” does not include judgment, evaluation,
15 assessments, injections of medication (except for prefilled
16 insulin or insulin pens), or monitoring of medication or self-
17 administration of medications, such as prescription drugs and
18 self-injection of medication by the resident.

19 (b) “Approved medication assistive personnel (AMAP)”
20 means unlicensed facility staff member, who meets eligibility
21 requirements, has successfully completed the required training
22 and competency testing, and is considered competent by the
23 authorized registered professional nurse to administer
24 medications or perform health maintenance tasks, or both, to
25 residents of the facility in accordance with this article.

26 (c) “Authorized practitioner” means a physician licensed
27 under the provisions of article three, chapter thirty of this code
28 or article fourteen, chapter thirty of this code.

29 (d) “Authorized registered professional nurse” means a
30 person who holds an unencumbered license pursuant to article
31 seven, chapter thirty, and meets the requirements to train and
32 supervise approved medication assistive personnel pursuant to
33 this article, and has completed and passed the facility
34 trainer/instructor course developed by the authorizing agency.

35 (e) “Authorizing agency” means the Office of Health
36 Facility Licensure and Certification.

37 (f) "Delegation" means transferring to a competent
38 individual, as determined by the authorized registered
39 professional nurse, the authority to perform a selected task in a
40 selected situation.

41 (g) "Delegation decision model" means the process the
42 authorized registered professional nurse must follow to
43 determine whether or not to delegate a nursing task to an
44 approved medication assistive personnel. The delegation
45 decision model is approved by the West Virginia Board of
46 Examiners for Registered Professional Nurses.

47 (h) "Department" means the Department of Health and
48 Human Resources.

49 (i) "Facility" means an intermediate care facility for
50 individuals with an intellectual disability, assisted living,
51 behavioral health group home, private residence in which health
52 care services and health maintenance tasks are provided under
53 the supervision of a registered professional nurse as defined in
54 article seven, chapter thirty of this code.

55 (j) "Facility staff member" means an individual employed by
56 a facility but does not include a health care professional acting
57 within his or her scope of practice.

58 (k) "Family" means biological parents, adoptive parents,
59 foster parents, or other immediate family members living within
60 the same household.

61 (l) "Health care professional" means a medical doctor or
62 doctor of osteopathy, a podiatrist, registered professional nurse,
63 practical nurse, advanced practice registered nurse, physician's
64 assistant, dentist, optometrist or respiratory care professional
65 licensed under chapter thirty of this code.

66 (m) "Health maintenance tasks" means performing the
67 following tasks according to the legibly written or printed

68 directions of a health care professional or as written on the
69 prescription label, and making a written record of that assistance
70 with regard to each health maintenance task administered,
71 including the time, route and amount taken:

72 (1) Administering glucometer tests;

73 (2) Administering gastrostomy tube feedings;

74 (3) Administering enemas;

75 (4) Performing ostomy care which includes skin care and
76 changing appliances; and

77 (5) Performing tracheostomy and ventilator care for
78 residents in a private residence who are living with family and/or
79 natural supports.

80 "Health maintenance tasks" do not include judgment,
81 evaluation, assessments, injections of medication, except for
82 prefilled insulin or insulin pens, or monitoring of medication or
83 self-administration of medications, such as prescription drugs
84 and self-injection of medication by the resident.

85 (n) "Immediate family" means mother, stepmother, father,
86 stepfather, sister, stepsister, brother, stepbrother, spouse, child,
87 grandparent and grandchildren.

88 (o) "Location of medication administration or location where
89 health maintenance tasks are performed" means a facility or
90 location where the resident requires administration of medication
91 or assistance in taking medications or the performance of health
92 maintenance tasks.

93 (p) "Medication" means a drug, as defined in section one
94 hundred one, article one, chapter sixty-a of this code, which has
95 been prescribed by a health care professional to be ingested
96 through the mouth, inhaled through the nose or mouth,
97 administered through a gastrostomy tube, applied to the outer

98 skin, eye or ear, or applied through nose drops, vaginal or rectal
99 suppositories.

100 (q) "Natural supports" means family, friends, neighbors or
101 anyone who provides assistance and support to a resident but is
102 not reimbursed.

103 (r) "Registered professional nurse" means a person who
104 holds a valid license pursuant to article seven, chapter thirty of
105 this code.

106 (s) "Resident" means a resident of a facility who for
107 purposes of this article, is in a stable condition.

108 (t) "Secretary" means the Secretary of the department or his
109 or her designee.

110 (u) "Self-administration of medication" means the act of a
111 resident, who is independently capable of reading and
112 understanding the labels of drugs ordered by an authorized
113 practitioner, in opening and accessing prepackaged drug
114 containers, accurately identifying and taking the correct dosage
115 of the drugs as ordered by the health care professional, at the
116 correct time and under the correct circumstances.

117 (v) "Self-administration of medication with assistance"
118 means assisting residents who are otherwise able to self-
119 administer their own medications except their physical
120 disabilities prevent them from completing one or more steps in
121 the process.

122 (w) "Stable" means the individual's health condition is
123 predictable and consistent as determined by the registered
124 professional nurse.

125 (x) "Supervision of self-administration of medication"
126 means a personal service which includes reminding residents to
127 take medications, opening medication containers for residents,
128 reading the medication label to residents, observing residents

129 while they take medication, checking the self-administered
130 dosage against the label on the container and reassuring residents
131 that they have obtained and are taking the dosage as prescribed.

**§16-50-3. Administration of medications; performance of health
maintenance tasks; maintenance of liability
insurance in facilities.**

1 (a) The secretary shall continue a program for the
2 administration of medications and performance of health
3 maintenance tasks in locations covered by this article. The
4 program shall be developed and conducted in cooperation with
5 the appropriate agencies, advisory bodies and boards.

6 (b) Administration of medication or performance of health
7 maintenance tasks shall be performed only by:

8 (1) Licensed health care professionals; or

9 (2) Facility staff members who have been trained and
10 retrained every two years and who are subject to the supervision
11 of and approval by an authorized registered professional nurse.

12 (c) After assessing the health status of an individual resident,
13 a registered professional nurse, in collaboration with the
14 resident's health care professional and the facility staff member,
15 may recommend that the facility authorize a facility staff
16 member to administer medication or perform health maintenance
17 tasks if the staff member:

18 (1) Has been trained pursuant to the requirements of this
19 article;

20 (2) Is considered by the authorized registered professional
21 nurse to be competent;

22 (3) Consults with the authorized registered professional
23 nurse on a regular basis; and

24 (4) Is monitored or supervised by the authorized registered
25 professional nurse.

26 (d) An agency or facility employing personnel for the
27 purposes of supervising the administration of medication or the
28 performance of health maintenance tasks shall maintain liability
29 insurance for the licensed health care provider, any facility staff
30 member who has been trained and is employed to administer
31 medication or perform health maintenance tasks and if
32 applicable the health care provider's collaborative supervising
33 physician.

34 (e) Nothing in this article may be construed to prohibit any
35 facility staff member from administering medications or
36 performing health maintenance tasks, or providing any other
37 prudent emergency assistance to aid any person who is in acute
38 physical distress or requires emergency assistance.

39 (f) Supervision of self-administration of medication by
40 facility staff members who are not licensed health care
41 professionals may be permitted in certain circumstances, when
42 the substantial purpose of the setting is other than the provision
43 of health care.

§16-50-5. Instruction and training.

1 (a) The authorizing agency shall establish a council of nurses
2 to represent the facilities and registered professional nurses
3 affected by this article. The council shall prepare a procedural
4 manual and recommendations regarding a training course to the
5 secretary. The council shall meet every two years to review and
6 make recommendations to the training curricula, competency
7 evaluation procedures and rules implemented by the secretary.

8 (b) The department shall develop and approve training
9 curricula and competency evaluation procedures for facility staff
10 members who administer medication or perform health
11 maintenance tasks. The department shall consider the

12 recommendations of the council and shall consult with the West
13 Virginia Board of Examiners for Registered Nurses in
14 developing the training curricula and competency evaluation
15 procedures.

16 (c) The authorizing agency shall coordinate and collaborate
17 with the Board of Respiratory Care to develop the training and
18 testing component for health maintenance tasks related to
19 respiratory care, including but not limited to inhaled
20 medications, tracheostomy care and ventilator care. This
21 includes modifying and updating the existing curriculum for an
22 authorized registered professional nurse and the approved
23 medication assistive persons.

24 (1) The authorizing agency shall develop and approve
25 training curricula and competency evaluation. The authorizing
26 agency shall establish a council of nurses to assist with the
27 development of the training and evaluation process.

28 (2) The curriculum, training competency and testing
29 components related to respiratory care shall be approved by the
30 Respiratory Care Board per subsection (e), section fifteen, article
31 thirty-four, chapter thirty.

32 (d) The program developed by the department shall require
33 that any person who applies to act as a facility staff member
34 authorized to administer medications or perform health
35 maintenance tasks shall:

36 (1) Hold a high school diploma or general education
37 diploma;

38 (2) Be certified in cardiopulmonary resuscitation and first
39 aid;

40 (3) Participate in the initial training program developed by
41 the department;

42 (4) Pass a competency evaluation developed by the
43 department; and

44 (5) Participate in a retraining program every two years.

45 (e) Any facility may offer the training and competency
46 evaluation program developed by the department to its facility
47 staff members. The training and competency programs shall be
48 provided by the facility through a registered professional nurse.

49 (f) A registered professional nurse who is authorized to train
50 facility staff members to administer medications or perform
51 health maintenance tasks in facilities shall:

52 (1) Possess a current active license as set forth in article
53 seven, chapter thirty in good standing to practice as a registered
54 nurse;

55 (2) Have practiced as a registered professional nurse in a
56 position or capacity requiring knowledge of medications and the
57 performance of health maintenance tasks for the immediate two
58 years prior to being authorized to train facility staff members;

59 (3) Be familiar with the nursing care needs of residents of
60 facilities as described in this article; and

61 (4) Have completed and passed the facility trainer/instructor
62 course developed by the authorizing agency.

63 (g) After successfully completing the initial training and
64 testing for the AMAP program, registered professional nurses
65 and AMAPs shall have competencies for health maintenance
66 tasks reassessed and documented annually by the employer of
67 record to ensure continued competence.

**§16-50-6. Availability of records; eligibility requirements of
facility staff.**

1 (a) Any facility which authorizes unlicensed staff members
2 to administer medications or perform health maintenance tasks

3 shall make available to the authorizing agency a list of the
4 individual facility staff members authorized to administer
5 medications or perform health maintenance tasks.

6 (b) Any facility may permit a facility staff member to
7 administer medications or perform health maintenance tasks in
8 a single specific agency only after compliance with all of the
9 following:

10 (1) The staff member has successfully completed a training
11 program and received a satisfactory competency evaluation as
12 required by this article;

13 (2) The facility determines there is no statement on the state
14 administered nurse aide registry indicating that the staff member
15 has been the subject of finding of abuse or neglect of a long-term
16 care facility resident or convicted of the misappropriation of a
17 resident's property;

18 (3) The facility staff member has had a criminal background
19 check or if applicable, a check of the State Police Abuse
20 Registry, establishing that the individual has not been convicted
21 of crimes against persons or drug related crimes;

22 (4) The medication to be administered is received and
23 maintained by the facility staff member in the original container
24 in which it was dispensed by a pharmacist or the physician; and

25 (5) The facility staff member has complied with all other
26 applicable requirements of this article, the legislative rules
27 adopted pursuant to this article and other criteria, including
28 minimum competency requirements, as are specified by the
29 authorizing agency.

**§16-50-7. Oversight of medication administration and
performance of health maintenance tasks by the
approved medication assistive personnel.**

1 (a) Any facility in which medication is administered or
2 health maintenance tasks performed by the approved medication

3 assistive personnel shall establish an administrative monitoring
4 system in administrative policy. The specific requirements of the
5 administrative policy shall be established by the department,
6 through legislative rules. These rules shall be developed in
7 consultation with the West Virginia Board of Examiners for
8 Registered Nurses, the West Virginia Nurses Association, the
9 West Virginia Statewide Independent Living Council, and the
10 West Virginia Board of Respiratory Care. These rules are
11 required to include, at a minimum:

12 (1) Instructions on protocols for contacting an appropriate
13 healthcare professional in situations where a condition arises
14 which may create a risk to the resident's health and safety;

15 (2) The type and frequency of monitoring and training
16 requirements for management of these occurrences; and

17 (3) Procedures to prevent drug diversion.

18 (b) Monitoring of facility staff members authorized pursuant
19 to this article shall be performed by a registered professional
20 nurse employed or contracted by the facility, who shall exercise
21 judgment, evaluate and assess the patient, inject medicine,
22 except prefilled insulin and insulin pens if this task is delegated
23 to an approved medication assistive person, and monitor
24 medications, self-administration of medications and self-
25 injections by the resident in accordance with his or her scope of
26 practice.

§16-50-8. Withdrawal of authorization.

1 The registered professional nurse who monitors or
2 supervises the facility staff members authorized to administer
3 medication or perform health maintenance tasks may withdraw
4 authorization for a facility staff member if the nurse determines
5 that the facility staff member is not performing medication
6 administration or health maintenance tasks in accordance with
7 the training and written instructions. The withdrawal of the

8 authorization shall be documented and relayed to the facility and
9 the department in order to remove the facility staff member from
10 the list of authorized individuals. The department shall maintain
11 a list of the names of persons whose authorization to administer
12 medication or perform health maintenance tasks has been
13 withdrawn, and the reasons for withdrawal of authorization. The
14 list may be accessed by registered professional nurses or
15 facilities.

§16-50-10. Limitations on medication administration or performance of health maintenance tasks.

1 The following limitations apply to the administration of
2 medication or performance of health maintenance tasks by
3 facility staff members:

4 (a) Injections or any parenteral medications may not be
5 administered, except that prefilled insulin or insulin pens may be
6 administered;

7 (b) Irrigations or debriding agents used in the treatment of a
8 skin condition or minor abrasions may not be administered;

9 (c) No verbal medication orders may be accepted, no new
10 medication orders shall be transcribed and no drug dosages may
11 be converted and calculated;

12 (d) No medications ordered by the health care professional
13 to be given "as needed" may be administered unless the order is
14 written with specific parameters which preclude independent
15 judgment; and

16 (e) Health maintenance tasks for the performance of
17 tracheostomy care and ventilator care is not permitted in an
18 intermediate care facility for individuals with an intellectual
19 disability, assisted living, behavioral health group home, private
20 residence where the resident is not residing with family and/or
21 natural supports.

§16-50-12. Advisory Committee.

1 (a) There is continued an advisory committee to assist with
2 the development of polices and procedures regarding health
3 maintenance care in order to safeguard the well-being and to
4 preserve the dignity of persons who need assistance to live in
5 their communities and avoid institutionalization.

6 (b) (1) The advisory committee shall consist of eleven voting
7 members as follows:

8 (A) The Olmstead Coordinator within the department of
9 Health and Human Resources, Office of Inspector General;

10 (B) One physician with expertise in respiratory medicine to
11 be chosen by the West Virginia Board of Respiratory Care.

12 (C) A representative choosen by AARP West Virginia;

13 (D) A representative chosen by the West Virginia Statewide
14 Independent Living Council;

15 (E) A representative chosen by the West Virginia
16 Developmental Disabilities Council;

17 (F) A representative chosen by the West Virginia Board of
18 Respiratory Care;

19 (G) A representative chosen by the West Virginia Society for
20 Respiratory Care;

21 (H) One representative of the West Virginia Board of
22 Examiners for Registered Professional Nurses;

23 (I) One representative of the West Virginia Nurses
24 Association;

25 (J) One representative of the Fair Shake Network; and

26 (K) The Office Director of the Office of Health Facility
27 Licensure and Certification.

28 (c) A chairman shall be selected from the voting members of
29 the advisory committee.

30 (d) The advisory committee shall meet at least four times
31 annually, upon the call of the chairman, or at the request of the
32 authorizing agency. A simple majority of the members shall
33 constitute a quorum.

34 (e) All members of the committee shall be reimbursed
35 reasonable expenses pursuant to the rules promulgated by the
36 Department of Administration for the reimbursement of
37 expenses of state officials and employees and shall receive no
38 other compensation for their services.

CHAPTER 80

**(Com. Sub. for H. B. 4560 - By Delegates Manchin,
Caputo, Longstreth, Skinner, Moore, Wells,
M. Poling and Sponaugle)**

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, all relating to reimbursement for copies of medical records; copies of medical records in electronic format; and limiting the reimbursement fee for electronic records.

Be it enacted by the Legislature of West Virginia:

That §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 29. HEALTH CARE RECORDS.**§16-29-1. Copies of health care records to be furnished to patients.**

1 (a) Any licensed, certified or registered health care provider
2 so licensed, certified or registered under the laws of this state
3 shall, upon the written request of a patient, his or her authorized
4 agent or authorized representative, within a reasonable time,
5 furnish a copy, in the form of a paper copy or, if requested and
6 if the provider routinely stores records electronically and has the
7 ability to so provide, a copy in an electronic format including,
8 but not limited to, a copy saved upon a computer disc, an
9 electronically mailed copy or a copy saved upon a portable
10 memory device of all or a portion of the patient's record to the
11 patient, his or her authorized agent or authorized representative
12 subject to the following exceptions:

13 (1) In the case of a patient receiving treatment for psychiatric
14 or psychological problems, a summary of the record shall be
15 made available to the patient, his or her authorized agent or
16 authorized representative following termination of the treatment
17 program.

18 (2) The furnishing of a copy, as requested, of the reports of
19 X-ray examinations, electrocardiograms and other diagnostic
20 procedures shall be deemed to comply with the provisions of this
21 article.

22 (b) Nothing in this article shall be construed to require a
23 health care provider responsible for diagnosis, treatment or
24 administering health care services in the case of minors for birth
25 control, prenatal care, drug rehabilitation or related services or
26 venereal disease according to any provision of this code, to
27 release patient records of such diagnosis, treatment or provision
28 of health care as aforesaid to a parent or guardian, without prior
29 written consent therefor from the patient, nor shall anything in

30 this article be construed to apply to persons regulated under the
31 provisions of chapter eighteen of this code or the rules and
32 regulations established thereunder.

33 (c) This article does not apply to records subpoenaed or
34 otherwise requested through court process.

35 (d) The provisions of this article may be enforced by a
36 patient, authorized agent or authorized representative, and any
37 health care provider found to be in violation of this article shall
38 pay any attorney fees and costs, including court costs incurred in
39 the course of such enforcement.

40 (e) Nothing in this article shall be construed to apply to
41 health care records maintained by health care providers governed
42 by the AIDS-related Medical Testing and Records
43 Confidentiality Act under the provisions of article three-c of this
44 chapter.

§16-29-2. Reasonable expenses to be reimbursed.

1 (a) A person requesting records from a provider shall place
2 the request in writing and pay a reasonable, cost-based fee, at the
3 time of delivery. Notwithstanding any other section of the code
4 or rule, the fee shall be based on the provider's cost of: (1) Labor
5 for copying the requested records if in paper, or for placing the
6 records in electronic media; (2) supplies for creating the paper
7 copy or electronic media; and (3) postage if the person requested
8 that the records be mailed.

9 If a person requests or agrees to an explanation or summary
10 of the records, the provider may charge a reasonable cost-based
11 fee for the labor cost if preparing the explanation or the
12 summary; for the supplies for creating the explanation or
13 summary; and for the cost of postage, if the person requested
14 that the records be mailed. If the records are stored with a third

15 party or a third party responds to the request for records in paper
16 or electronic media, the provider may charge additionally for the
17 actual charges incurred from the third party.

18 (b) The labor for copying under this section shall not exceed
19 twenty-five dollars per hour and shall be adjusted to reflect the
20 consumer price index for medical care services such that the
21 base amount shall be increased by the proportional consumer
22 price index in effect as of October of the calendar year in which
23 the request was made, rounded to the nearest dollar.

24 (c) Notwithstanding the provisions of subsection (a) of this
25 section, a provider shall not impose a charge on an indigent
26 person or his or her authorized representative if the medical
27 records are necessary for the purpose of supporting a claim or
28 appeal under any provisions of the Social Security Act, 42
29 U.S.C. §301 et seq.

30 For purposes of this section, a person is considered indigent
31 if he or she:

32 (1) Is represented by an organization or affiliated pro bono
33 program that provides legal assistance to indigents; or

34 (2) Verifies on a medical records request and release form
35 that the records are requested for purposes of supporting a Social
36 Security claim or appeal and submits with the release form
37 reasonable proof that the person is financially unable to pay full
38 copying charges by reason of unemployment, disability, income
39 below the federal poverty level, or receipt of state or federal
40 income assistance.

41 (d) Any person requesting free copies of written medical
42 records pursuant to the provisions of subsection (c) of this
43 section is limited to one set of copies per provider. Any
44 additional requests for the same records from the same provider
45 shall be subject to the fee provisions of subsection (a).

CHAPTER 81

(S. B. 483 - By Senators Laird, Plymale,
Miller and Stollings)

[Passed March 6, 2014; in effect from passage.]
[Approved by the Governor on March 14, 2014.]

AN ACT to amend and reenact §18B-1B-6 of the Code of West Virginia, 1931, as amended, relating to renaming the administrative heads of Potomac State College of West Virginia University and West Virginia University Institute of Technology; and updating obsolete provisions.

Be it enacted by the Legislature of West Virginia:

That §18B-1B-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-6. Appointment of institutional presidents; evaluation.

1 (a) *Appointment of institutional presidents.* — Appointment
2 of presidents of the state institutions of higher education shall be
3 made as follows:

4 (1) The initial contract term for a president of a state
5 institution of higher education may not exceed two years. At the
6 end of the initial contract period, and subject to the provisions of
7 subsection (c) of this section, the governing board may offer the
8 president a contract of longer duration, but not to exceed five
9 years.

10 (2) The president of a state institution of higher education
11 serves at the will and pleasure of the appointing governing
12 board.

13 (3) Subject to the approval of the commission, the governing
14 board of the institution appoints a president for Bluefield State
15 College, Concord University, Fairmont State University,
16 Glenville State College, Marshall University, Shepherd
17 University, West Liberty University, West Virginia School of
18 Osteopathic Medicine, West Virginia State University and West
19 Virginia University.

20 (4) Subject to the approval of the council, the governing
21 board of the community and technical college appoints a
22 president for Blue Ridge Community and Technical College,
23 BridgeValley Community and Technical College, Eastern West
24 Virginia Community and Technical College, Mountwest
25 Community and Technical College, New River Community and
26 Technical College, Pierpont Community and Technical College,
27 Southern West Virginia Community and Technical College,
28 West Virginia Northern Community and Technical College and
29 West Virginia University at Parkersburg.

30 (b) *Other appointments.* — The President of West Virginia
31 University appoints a campus president to be the administrative
32 head of Potomac State College of West Virginia University and
33 a campus president to be the administrative head of West
34 Virginia University Institute of Technology.

35 (c) *Evaluation of presidents.* —

36 (1) The appointing governing board shall conduct written
37 performance evaluations of the institution's president.
38 Evaluations shall be done at the end of the initial contract period
39 and in every third year of employment as president thereafter,
40 recognizing unique characteristics of the institution and using
41 institutional personnel, boards of advisors as appropriate, staff
42 of the appropriate governing board and persons knowledgeable
43 in higher education matters who are not otherwise employed by
44 a governing board. A part of the evaluation shall be a
45 determination of the success of the institution in meeting the

46 requirements of its institutional compact and in achieving the
47 goals, objectives and priorities established in articles one and
48 one-d of this chapter.

49 (2) After reviewing the evaluations, the governing board
50 shall make a determination by majority vote of its members on
51 continuing employment and the compensation level for the
52 president in accordance with subsection (a) of this section.

53 (d) The legislative rules of the commission and council
54 promulgated in accordance with section six, article one of this
55 chapter and article three-a, chapter twenty-nine-a of this code
56 which are in effect on January 1, 2014, continue in effect unless
57 amended or repealed. The rules provide guidance for the
58 governing boards in filling vacancies in the office of president in
59 accordance with this chapter and shall include, but are not
60 limited to, clarifying the powers, duties and roles of the
61 governing boards, commission, council and chancellors in the
62 presidential appointment process.

CHAPTER 82

**(H. B. 4457 - By Delegates Lawrence, Raines,
Staggers, Fleischauer, Longstreth, Marshall, Hunt,
Barrett, Moore, L. Phillips and Skinner)**

[Passed March 5, 2014; in effect from passage.]

[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §18B-17-3 of the Code of West Virginia, 1931, as amended, relating to authorizing a legislative rule for the Council for Community and Technical College Education regarding standards for granting college credit for courses under the West Virginia EDGE program.

Be it enacted by the Legislature of West Virginia:

That §18B-17-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 17. LEGISLATIVE RULES.

§18B-17-3. Authorizing rules of the Council for Community and Technical College Education.

1 (a) The legislative rule filed in the State Register on
2 September 29, 2004, relating to the West Virginia Council for
3 Community and Technical College Education (performance
4 indicators) is authorized.

5 (b) The legislative rule filed in the State Register on October
6 13, 2005, relating to the West Virginia Council for Community
7 and Technical College Education (Authorization of degree-
8 granting institutions) is authorized.

9 (c) The legislative rule filed in the State Register on October
10 30, 2006, relating to the West Virginia Council for Community
11 and Technical College Education (Workforce Development
12 Initiative Program) is authorized.

13 (d) The legislative rule filed in the State Register on
14 December 4, 2008, relating to the West Virginia Council for
15 Community and Technical College Education (Employing and
16 Evaluating Presidents) is authorized.

17 (e) The legislative rule filed in the State Register on
18 December 23, 2008, relating to the West Virginia Council for
19 Community and Technical College Education (Performance
20 Indicators) is authorized.

21 (f) The legislative rule filed in the State Register on February
22 5, 2009, relating to the West Virginia Council for Community
23 and Technical College Education (Finance) is authorized.

24 (g) The legislative rule filed in the State Register on
25 February 5, 2009, relating to the West Virginia Council for
26 Community and Technical College Education (Accountability
27 System) is authorized.

28 (h) The legislative rule filed in the State Register on June 15,
29 2011, relating to the West Virginia Council for Community and
30 Technical College Education (Workforce Development Initiative
31 Program) is authorized.

32 (i) The legislative rule filed in the State Register on October
33 26, 2011, relating to the West Virginia Council for Community
34 and Technical College Education (Tuition and Fees) is
35 authorized.

36 (j) The legislative rule filed in the State Register on October
37 17, 2012, relating to the West Virginia Council for Community
38 and Technical College Education (Authorization of Degree
39 Granting Institutions) is authorized.

40 (k) The legislative rule filed in the State Register on October
41 17, 2012, relating to the West Virginia Council for Community
42 and Technical College Education (Annual Reauthorization of
43 Degree Granting Institutions) is authorized.

44 (l) The legislative rule filed in the State Register on March
45 21, 2013, relating to the West Virginia Council for Community
46 and Technical College Education (Human Resources
47 Administration) is authorized.

48 (m) The legislative rule filed in the State Register on August
49 21, 2012, relating to the West Virginia Council for Community
50 and Technical College Education (West Virginia EDGE
51 Program) is authorized.

CHAPTER 83

**(Com. Sub. for H. B. 4496 - By Delegates Skaff,
Mr. Speaker (Mr. Miley), White, Paxton, Armstead, Lane,
E. Nelson, Fragale, Moore, McCuskey and Poore)**

[Passed March 6, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §18B-18A-1, §18B-18A-2, §18B-18A-3, §18B-18A-8, §18B-18A-9 and §18B-18A-11 of the Code of West Virginia, 1931, as amended, all relating generally to providing for the allocation of matching funds from the West Virginia Research Trust Fund; expanding the eligible recipients of matching funds to include West Virginia State University; and continuing legislative rule and expanding its application.

Be it enacted by the Legislature of West Virginia:

That §18B-18A-1, §18B-18A-2, §18B-18A-3, §18B-18A-8, §18B-18A-9 and §18B-18A-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 18A. DIRECTED RESEARCH ENDOWMENTS.

§18B-18A-1. Legislative findings; purpose; and intent.

1 (a) The Legislature finds that the continued expansion of the
2 nation's economy is dependent upon the ability of its institutions
3 of higher education to increase the quality, quantity and
4 productivity of its citizens who are engaged in scientific and
5 technical fields of study. Failure of the United States to compete
6 in these areas may lead to lower standards of living, dependence
7 upon foreign intellectual capital and international insecurity. The
8 economic future of West Virginia is equally dependent upon the

9 ability of Marshall University and West Virginia University, the
10 state's two doctoral-granting, public research universities, as
11 well as its other higher education institutions to promote, educate
12 and train researchers and research support staff in these diverse
13 fields of study.

14 The Legislature further finds that a recent emphasis on the
15 creation of innovative curricula and the receipt of significant
16 private donations by Marshall University and West Virginia
17 University has led to major expansions in certain areas of study,
18 including energy, national security technology, environmental
19 sciences, health and biomedical sciences, biometrics,
20 biotechnology and nanotechnology. Despite these expansions,
21 the additional investment of both private donations and state
22 moneys is critical to recruiting world-class scientists,
23 researchers, research staff, technicians and professional degree
24 graduates, as well as providing funding for laboratories and
25 scientific equipment.

26 (b) The purpose of the Legislature in enacting this article is
27 to establish a state fund to be administered by the Higher
28 Education Policy Commission to address the findings outlined
29 in subsection (a) of this section. The fund will make public
30 moneys available to the state's two doctoral-granting public
31 research universities, Marshall University and West Virginia
32 University, and a state land grant higher education institution,
33 West Virginia State University, to match qualified private
34 donations and qualified private donation pledges; thereby
35 creating an incentive for donors to support certain priority areas
36 of study consistent with each participating institution's long-
37 range strategic plan for research. Creation of this fund promotes
38 strategic private donations targeted to specific areas of research
39 and creates a sustainable source of funding for research
40 initiatives that are critical to achieving long-term goals
41 including, but not limited to, the following:

42 (1) Research-based economic development and economic
43 diversification; and

44 (2) Increased potential for patenting, licensing and related
45 technology transfer and commercialization of scientific and
46 technological research in the state.

§18B-18A-2. Definitions.

1 (a) *General.* – For the purposes of this article, terms have the
2 meaning ascribed to them in section two, article one of this
3 chapter, unless the context in which the term is used clearly
4 requires a different meaning or a specific definition is provided
5 in this section.

6 (b) *Definitions.* – Solely for the purposes of this article, the
7 following words and phrases have the meanings ascribed to
8 them.

9 (1) “Directed research endowment” or “research
10 endowment” means an account established at or administered by
11 a participating institution or its affiliated research corporation or
12 foundation in accordance with the provisions of section four of
13 this article;

14 (2) “Directed research endowment plan” or “research plan”
15 means the strategies and procedures formally approved and
16 adopted by a governing board of a participating institution
17 pursuant to section seven of this article outlining how a
18 participating institution proposes to use directed research
19 endowment proceeds to meet established goals and objectives;

20 (3) “Directed research endowment proceeds” or “endowment
21 proceeds” means those investment earnings accruing to a
22 participating institution’s directed research endowment and
23 available for expenditure by a participating institution or its
24 affiliated research corporation in accordance with the provisions
25 of section four of this article;

26 (4) "Trust fund" means the special account designated as the
27 West Virginia Research Trust Fund established in section three
28 of this article;

29 (5) "Participating institution" means Marshall University,
30 West Virginia University or West Virginia State University;

31 (6) "Qualified private donation" or "qualified donation"
32 means a private donation, gift or bequest to a directed research
33 endowment that meets the criteria set forth in section five of this
34 article;

35 (7) "Qualified private donation pledge" or "qualified pledge"
36 means a pledge, commitment or other agreement to give a
37 private donation to a directed research endowment that is made
38 pursuant to a written agreement between the donor and the
39 institution or its affiliated research corporation or foundation and
40 that meets the criteria set forth in section five of this article;

41 (8) "Foundation" means a corporation created, organized and
42 located in West Virginia that meets the following conditions:

43 (A) Is organized and operated for educational purposes in
44 support of one or more state institutions of higher education;

45 (B) Is designated by the board of governors of one or more
46 state institutions of higher education to receive charitable
47 contributions for educational purposes on behalf of the
48 institution or institutions;

49 (C) Does not have any part of its earnings inuring to the
50 benefit of a private shareholder or individual;

51 (D) Is not disqualified from tax exemption under 26 U.S.C.
52 §501(c)(3) for any reason; and

53 (E) Does not participate or intervene in, on behalf of or in
54 opposition to any political campaigns for public office;

55 (9) "Research corporation" means an organization created
56 pursuant to the provisions of article twelve of this chapter; and

57 (10) "State college" means the West Virginia School of
58 Osteopathic Medicine, Bluefield State College, Concord
59 University, Fairmont State University, Glenville State College,
60 Shepherd University or West Liberty University.

**§18B-18A-3. West Virginia Research Trust Fund; use of
investment earnings.**

1 (a) There is continued in the State Treasury a special fund to
2 be known as the West Virginia Research Trust Fund which shall
3 consist of appropriations of moneys to the fund made by the
4 Legislature, all earnings from investment of the fund and any
5 unmatched portion of state moneys returned by a state institution
6 of higher education.

7 (b) Expenditures from the trust fund shall be made for the
8 purposes set forth in this article and are not subject to separate
9 appropriation by the Legislature. Any balance in the trust fund
10 at the end of each fiscal year, including accrued investment
11 earnings on any unmatched portion of state moneys returned by
12 a state institution of higher education, does not expire to the
13 General Revenue Fund, but remains in the trust fund to be
14 expended as provided by this article.

15 (c) In accordance with and subject to the provisions of
16 section eight of this article, the commission shall make available
17 moneys in this account to match qualified donations and
18 qualified pledges as follows:

19 (1) Sixty-five percent to West Virginia University;

20 (2) Thirty percent to Marshall University; and

21 (3) Five percent to West Virginia State University.

22 (d) Investment earnings accruing in the account may be
23 expended by the commission to provide matching research funds
24 to state colleges in accordance with the provisions of section ten
25 of this article.

§18B-18A-8. Distributions from West Virginia Research Trust Fund.

1 (a) A participating institution seeking a distribution of
2 matching moneys from the trust fund first shall obtain qualified
3 donations, qualified pledges, or both, in an amount equal to the
4 amount of matching moneys requested for distribution and shall
5 submit a request to the commission setting forth the following:

6 (1) The amount of qualified donations, qualified pledges, or
7 both, designated for use in requesting the distribution of
8 matching moneys from the trust fund and the amount of any
9 previous distributions of matching moneys from the trust fund;

10 (2) The amount requested for distribution to the participating
11 institution pursuant to section three of this article;

12 (3) An explanation of how the proposed use satisfies the
13 criteria for the eligible uses of endowment proceeds set forth in
14 section six of this article;

15 (4) An explanation of how the proposed use of the
16 endowment proceeds furthers the purposes of this article and
17 addresses the research needs of the institution as identified in the
18 research plan; and

19 (5) A designation of the applicable research endowment into
20 which the requested matching moneys are to be deposited.

21 (b) The commission shall review each request for
22 distribution of matching moneys from the trust fund for
23 compliance with the provisions of this article and the rule
24 promulgated pursuant to section eleven of this article.

25 (c) Once the commission approves the request of a
26 participating institution, it shall distribute matching moneys
27 from those allocated to the institution in the trust fund to the
28 applicable research endowment in an amount equal to the
29 amount of qualified donations, qualified pledges, or both.

§18B-18A-9. Reallocation of matching moneys.

1 (a) No later than seven years from the July 1, 2014, each
2 participating institution shall have deposited into its research
3 endowments an amount of qualified donations equal to or greater
4 than the total amount of moneys allocated for distribution to the
5 institution pursuant to the provisions of subsection (c), section
6 three of this article.

7 (1) If one of the participating institutions fails to have
8 deposited into its research endowments the requisite amount of
9 qualified donations by the end of the seven-year period, then any
10 portion of the moneys allocated to the institution that has not
11 been distributed shall be reallocated for distribution to the other
12 participating institutions pursuant to the terms of this article.

13 (2) To be eligible to receive a distribution of reallocated
14 moneys pursuant to this subsection, another participating
15 institution shall have qualified donations in excess of the amount
16 required by subsection (a) of this section deposited into its
17 research endowment(s) in an amount equal to or greater than the
18 amount of reallocated moneys.

19 (3) If another participating institution does not have excess
20 qualified donations on deposit, the reallocated moneys shall be
21 made available for distribution by the commission to state
22 colleges in accordance with the provisions of section ten of this
23 article.

24 (b) If any pledge previously used by a participating
25 institution to obtain a distribution of matching moneys from the

26 trust fund has not been paid in full within seven years from July
27 1, 2014, then the institution shall return the unmatched portion
28 of state moneys to the trust fund. These moneys shall be
29 reallocated for distribution to the other participating institutions
30 or to the state colleges pursuant to the terms of this section and
31 section ten of this article as applicable.

32 (c) If all participating institutions fail to have deposited into
33 their respective research endowments the requisite amount of
34 qualified donations within seven years from July 1, 2014, then
35 any moneys remaining in the trust fund that have not been
36 distributed shall be made available for distribution by the
37 commission to state colleges in accordance with the provisions
38 of this article.

§18B-18A-11. Higher Education Policy Commission rule.

1 (a) The commission's legislative rule to implement the
2 provisions and purposes of this article which is in effect on July
3 1, 2014, continues in effect unless repealed or amended in
4 accordance with the provisions of section six, article one of this
5 chapter and article three-a, chapter twenty-nine-a of this code.
6 The rule shall be interpreted to include West Virginia State
7 University as a participating institution as provided in this
8 article.

9 (b) The rule shall include the following:

10 (1) Documentation standards and review procedures to
11 determine whether a donation or pledge meets the criteria of a
12 qualified donation or qualified pledge when initially received or
13 when the terms of a qualified donation or a qualified pledge are
14 materially altered;

15 (2) Eligibility criteria in accordance with the provisions of
16 section six of this article for the expenditure of endowment
17 proceeds to pay the base salaries of personnel, to fund research
18 fellowships and to purchase basic infrastructure;

19 (3) Procedures to ensure that endowment proceeds are
20 expended in compliance with the provisions of this article;

21 (4) A requirement for each participating institution to report
22 on the total amount of qualified donations received, the
23 investment earnings realized and any anticipated expenditures of
24 the research endowment proceeds in its annual operating budget;
25 and

26 (5) Procedures for the competitive application and review of
27 requests from state colleges and criteria for the eligible use of
28 moneys distributed pursuant to section ten of this article.



CHAPTER 84

**(S. B. 394 - By Senators Laird, Stollings, Plymale, Wells, Beach,
Chafin, Tucker, Boley, Carmichael and Jenkins)**

[Passed March 6, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §18C-3-3 of the Code of West Virginia, 1931, as amended, relating to establishing the Health Sciences Service Program; continuing special revolving fund account and designating new name of fund; modifying fund expenditure provisions; modifying certain defined term; and expanding and modifying program eligibility.

Be it enacted by the Legislature of West Virginia:

That §18C-3-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAMS.**§18C-3-3. Health Sciences Service Program; establishment; administration; eligibility.**

1 (a) *Legislative findings.* — The Legislature finds that there
2 is a critical need for additional practicing health care
3 professionals in West Virginia. Therefore, there is created a
4 Health Sciences Service Program to be administered by the Vice
5 Chancellor for Health Sciences. The purpose of this program is
6 to provide an incentive for health professional students to
7 complete their training and provide primary care in underserved
8 areas of West Virginia.

9 (b) *Special account.* — There is continued a special
10 revolving fund account under the Higher Education Policy
11 Commission in the State Treasury formerly known as the Health
12 Sciences Scholarship Fund and hereafter designated the Health
13 Sciences Service Program Fund. The fund shall be used to
14 accomplish the purposes of this section. The fund consists of any
15 of the following:

16 (1) All unexpended health sciences scholarship funds on
17 deposit in the State Treasury on the effective date of this section;

18 (2) Appropriations as may be provided by the Legislature;

19 (3) Repayments, including interest as set by the Vice
20 Chancellor for Health Sciences, collected from program award
21 recipients who fail to practice or teach in West Virginia under
22 the terms of an award agreement or the health sciences
23 scholarship program previously established by this section; and

24 (4) Amounts that may become available from other sources.

25 Balances remaining in the fund at the end of the fiscal year
26 do not expire or revert to the general revenue. All costs

27 associated with the administration of this section shall be paid
28 from the Health Sciences Service Program Fund under the
29 direction of the Vice Chancellor for Health Sciences.

30 (c) *Eligibility requirements.* — Award preference is given to
31 West Virginia residents. An individual is eligible for
32 consideration for a Health Sciences Service Program award if the
33 individual:

34 (1) Either:

35 (A) Is a fourth-year medical student at the Marshall
36 University School of Medicine, West Virginia School of
37 Osteopathic Medicine or West Virginia University School of
38 Medicine who has been accepted in a primary care
39 internship/residency program in West Virginia; or

40 (B) Is enrolled in an approved education program at a West
41 Virginia institution leading to a degree or certification in the
42 field of nurse practitioner, nurse educator, nurse midwife,
43 physician assistant, dentist, pharmacist, physical therapist,
44 doctoral clinical psychologist, licensed independent clinical
45 social worker or other disciplines identified as shortage fields by
46 the Vice Chancellor for Health Sciences; and

47 (2) Signs an agreement to practice for at least two years in
48 an underserved area of West Virginia or, if pursuing a master's
49 degree in nursing, signs an agreement to teach at least two years
50 for a school of nursing located in West Virginia, as may be
51 determined by the Vice Chancellor for Health Sciences, after
52 receiving the master's degree.

53 (d) *Program awards.* — Program awards shall be in an
54 amount set by the Higher Education Policy Commission of at
55 least \$20,000 for medical and dental students and at least
56 \$10,000 for all others and may be awarded by the Vice
57 Chancellor for Health Sciences, with the advice of an advisory

58 panel, from the pool of all applicants with a commitment to
59 practice in an underserved area of West Virginia. This section
60 does not grant or guarantee any applicant any right to a program
61 award.

62 (e) *Repayment provisions.* — A program award recipient
63 who fails to practice in an underserved area of West Virginia
64 within six months of the completion of his or her training, or
65 who fails to complete his or her training or required teaching, is
66 in breach of contract and is liable for repayment of the program
67 award and any accrued interest. The granting or renewal of a
68 license to practice in West Virginia or to reciprocal licensure in
69 another state based upon licensure in West Virginia is contingent
70 upon beginning payment and continuing payment until complete
71 repayment of the award and any accrued interest. A license,
72 renewal or reciprocity may not be granted to any person whose
73 repayment is in arrears. The appropriate regulatory board shall
74 inform all other states where a recipient has reciprocated based
75 upon West Virginia licensure of any refusal to renew licensure
76 in West Virginia as a result of failure to repay the award. This
77 provision shall be explained in bold type in the award contract.
78 Repayment terms, not inconsistent with this section, shall be
79 established by the Vice Chancellor for Health Sciences pursuant
80 to the rule required by this section.

81 (f) *Rule.* — The Higher Education Policy Commission shall
82 promulgate a rule pursuant to article three-a, chapter twenty
83 nine-a of this code to implement and administer this section.

84 (g) *Definitions.* — As used in this section:

85 (1) “Training” means:

86 (A) The entire degree program or certification program for
87 nurse midwives, nurse practitioners, nurse educators, physician
88 assistants, dentists, pharmacists, physical therapists, doctoral
89 clinical psychologists, licensed independent clinical social

90 workers and other disciplines identified as shortage fields by the
91 Vice Chancellor for Health Sciences; or

92 (B) Completion of a degree program and an approved
93 residency/internship program for students pursuing a degree in
94 medicine or osteopathy, or as otherwise may be designated for
95 such students in the rule required by this section.

96 (2) "Underserved area" means any primary care health
97 professional shortage area located in the state as determined by
98 the Bureau for Public Health or any additional health
99 professional shortage area determined by the Vice Chancellor for
100 Health Sciences.

CHAPTER 85

**(H. B. 4135 - By Delegates P. Smith, Perry, Pino, Walker,
Young, Lynch, Hamilton, Hartman and Kinsey)**

[Passed March 7, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 21, 2014.]

AN ACT to amend and reenact §2-2-1a of the Code of West Virginia, 1931, as amended, relating to designating the first Thursday in May the West Virginia Day of Prayer.

Be it enacted by the Legislature of West Virginia:

That §2-2-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL
DAYS; CONSTRUCTION OF STATUTES;
DEFINITIONS.**

§2-2-1a. Special memorial days.

1 (a) The Governor shall, by proclamation, declare the week
2 beginning with the Sunday before Thanksgiving as a special
3 memorial week to be known as Native American Indian Heritage
4 Week.

5 (b) The first Tuesday after the first Monday of November is
6 designated Susan B. Anthony Day and shall only be a legal
7 holiday in all years ending in an even number. The Governor
8 shall annually issue a proclamation calling on all schools, civic
9 organizations, government departments and citizens to undertake
10 activities on the designated day and surrounding days to pay
11 tribute to the accomplishments of Susan B. Anthony in securing
12 the civil and political rights of all Americans, including securing
13 equal voting rights for women.

14 (c) The Governor shall, by proclamation, declare the week
15 during which December 7 falls to be a special memorial week,
16 to be known as Pearl Harbor and Military Appreciation week,
17 honoring all West Virginians who fought in World War II and all
18 other military conflicts and shall encourage all municipalities in
19 the state to do the same. The State Department of Education is
20 directed to implement a program involving activities in which
21 students shall participate which shall recognize the contributions
22 West Virginians have made to their country through service in
23 the United States Military.

24 (d) The Governor shall, by proclamation, declare March 30
25 as a special memorial day to be known as Vietnam Veteran
26 Recognition Day honoring all West Virginians who served in the
27 United States Armed Forces in the Republic of Vietnam during
28 the period beginning February 28, 1961 and ending May 7, 1975,
29 and shall encourage all counties and municipalities in the state
30 to do the same.

31 (e) The Governor shall, by proclamation, declare August 7
32 as a special memorial day, to be known as Purple Heart
33 Recognition Day, honoring all West Virginians who, while
34 serving in the United States Armed Forces, have been wounded
35 or killed in action and shall encourage all municipalities and
36 counties in the state to do the same.

37 (f) The Governor shall, by proclamation, declare July 27 as
38 a special memorial day to be known as Korean War Veteran
39 Recognition Day honoring all West Virginians who served in the
40 United States Armed Forces in the Korean War, and shall
41 encourage all counties and municipalities in the state to do the
42 same.

43 (g) The Governor shall, by proclamation, declare the first
44 Thursday in May as the West Virginia Day of Prayer. The West
45 Virginia Day of Prayer corresponds with the National Day of
46 Prayer, 36 U.S.C. §119, on which the people of West Virginia
47 may turn to God in prayer and meditation at churches, in groups,
48 and as individuals.

CHAPTER 86

(S. B. 314 - By Senators Williams and Sypolt)

[Passed March 5, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 14, 2014.]

AN ACT to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to proceeds of the hotel occupancy tax; allowing expenditure of the proceeds for medical care and emergency services in certain counties with no more than one hospital; and measuring county populations according to most recent decennial census for these purposes.

Be it enacted by the Legislature of West Virginia:

That §7-18-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-14. Proceeds of tax; application of proceeds.

1 (a) *Application of proceeds.* — The net proceeds of the tax
2 collected and remitted to the taxing authority pursuant to this
3 article shall be deposited into the General Revenue Fund of such
4 municipality or county commission and, after appropriation
5 thereof, shall be expended only as provided in subsections (b)
6 and (c) of this section.

7 (b) *Required expenditures.* — At least fifty percent of the net
8 revenue receivable during the fiscal year by a county or a
9 municipality pursuant to this article shall be expended in the
10 following manner for the promotion of conventions and tourism:

11 (1) *Municipalities.* — If a convention and visitor's bureau is
12 located within the municipality, county or region, the governing
13 body of such municipality shall appropriate the percentage
14 required by this subsection to that bureau. If a convention and
15 visitor's bureau is not located within such municipality, county
16 or region, then the percentage appropriation required by this
17 subsection shall be appropriated as follows:

18 (A) Any hotel located within such municipality, county or
19 region may apply to such municipality for an appropriation to
20 such hotel of a portion of the tax authorized by this article and
21 collected by such hotel and remitted to such municipality, for
22 uses directly related to the promotion of tourism and travel,
23 including advertising, salaries, travel, office expenses,
24 publications and similar expenses. The portion of such tax
25 allocable to such hotel shall not exceed seventy-five percent of

26 that portion of such tax collected and remitted by such hotel
27 which is required to be expended pursuant to this subsection:
28 *Provided*, That prior to appropriating any moneys to such hotel,
29 such municipality shall require the submission of, and give
30 approval to, a budget setting forth the proposed uses of such
31 moneys.

32 (B) If there is more than one convention and visitor's bureau
33 located within a municipality, county or region, the city council
34 may allocate the tax authorized by this article to one or more of
35 such bureaus in such portion as the city council in its sole
36 discretion determines.

37 (C) The balance of net revenue required to be expended by
38 this subsection shall be appropriated to the regional travel
39 council serving the area in which the municipality is located.

40 (2) *Counties.* — If a convention and visitor's bureau is
41 located within a county or region, the county commission shall
42 appropriate the percentage required by this subsection to that
43 convention and visitor's bureau. If a convention and visitor's
44 bureau is not located within such county or region, then the
45 percentage appropriation required by this subsection shall be
46 appropriated as follows:

47 (A) Any hotel located within such county or region may
48 apply to such county for an appropriation to such hotel of a
49 portion of the tax authorized by this article and collected by such
50 hotel and remitted to such county, for uses directly related to the
51 promotion of tourism and travel, including advertising, salaries,
52 travel, office expenses, publications and similar expenses. The
53 portion of such tax allocable to such hotel shall not exceed
54 seventy-five percent of that portion of such tax collected and
55 remitted by such hotel which is required to be expended pursuant
56 to this subsection: *Provided*, That prior to appropriating any
57 moneys to such hotel such county shall require the submission

58 of, and give approval to, a budget setting forth the proposed uses
59 of such moneys.

60 (B) If there is more than one convention and visitor's bureau
61 located within a county or region, the county commission may
62 allocate the tax authorized by this article to one or more of such
63 bureaus in such portion as the county commission in its sole
64 discretion determines.

65 (C) The balance of net revenue required to be expended by
66 this subsection shall be appropriated to the regional travel
67 council serving the area in which the county is located.

68 (3) *Legislative finding.* — The Legislature hereby finds and
69 declares that in order to attract new business and industry to this
70 state and to retain existing business and industry all to provide
71 the citizens of the state with economic security, and to advance
72 the business prosperity and economic welfare of this state, it is
73 necessary to enhance recreational and tourism opportunities.
74 Therefore, in order to promote recreation and tourism, the
75 Legislature finds that public financial support should be
76 provided for constructing, equipping, improving and maintaining
77 projects, agencies and facilities which promote recreation and
78 tourism. The Legislature also finds that the support of
79 convention and visitor's bureaus, hotels and regional travel
80 councils is a public purpose for which funds may be expended.
81 Local convention and visitor's bureaus, hotels and regional
82 travel councils receiving funds under this subsection may expend
83 such funds for the payment of administrative expenses, and for
84 the direct or indirect promotion of conventions and tourism, and
85 for any other uses and purposes authorized by subdivisions (1)
86 and (2) of this subsection.

87 (c) *Permissible expenditures.* — After making the
88 appropriation required by subsection (b) of this section, the
89 remaining portion of the net revenues receivable during the fiscal
90 year by such county or municipality, pursuant to this article, may

91 be expended for one or more of the purposes set forth in this
92 subsection, but for no other purpose. The purposes for which
93 expenditures may be made pursuant to this subsection are as
94 follows:

95 (1) The planning, construction, reconstruction,
96 establishment, acquisition, improvement, renovation, extension,
97 enlargement, equipment, maintenance, repair and operation of
98 publicly owned convention facilities, including, but not limited
99 to, arenas, auditoriums, civic centers and convention centers;

100 (2) The payment of principal or interest or both on revenue
101 bonds issued to finance such convention facilities;

102 (3) The promotion of conventions;

103 (4) The construction, operation or maintenance of public
104 parks, tourist information centers and recreation facilities,
105 including land acquisition;

106 (5) The promotion of the arts;

107 (6) Historic sites;

108 (7) Beautification projects;

109 (8) Passenger air service incentives and subsidies directly
110 related to increasing passenger air service availability to tourism
111 destinations in this state;

112 (9) Medical care and emergency services, in an amount not
113 exceeding \$200,000, in any county where:

114 (A) There is an urgent necessity to preserve the delivery of
115 acute medical care and emergency services;

116 (B) There is an increase in need for acute medical care and
117 emergency services directly related to tourism;

118 (C) Recurrent flooding in the county significantly disrupts,
119 on a periodic basis, the delivery of acute medical care and
120 emergency services;

121 (D) There is an inadequate economic base within the county
122 from any source other than tourism to preserve the delivery of
123 acute medical care and emergency services;

124 (E) There is an inadequate economic base directly related to
125 low population in the county, specifically, a population of less
126 than ten thousand persons according to the most recent decennial
127 census taken under the authority of the United States;

128 (F) There is no more than one hospital within the county;
129 and

130 (G) The county commission makes specific findings, by
131 resolution, that all of the foregoing conditions within the county
132 exist; or

133 (10) Support and operation of the Hatfield-McCoy
134 Recreation Area by the participating county commissions in the
135 Hatfield-McCoy Regional Recreational Authority.

136 (d) *Definitions.* — For purposes of this section, the following
137 terms are defined:

138 (1) *Convention and visitor's bureau and visitor's and*
139 *convention bureau.* — “Convention and visitor's bureau” and
140 “visitor's and convention bureau” are interchangeable and either
141 shall mean a nonstock, nonprofit corporation with a full-time
142 staff working exclusively to promote tourism and to attract
143 conventions, conferences and visitors to the municipality, county
144 or region in which such convention and visitor's bureau or
145 visitor's and convention bureau is located or engaged in business
146 within.

147 (2) *Convention center*. — “Convention center” means a
148 convention facility owned by the state, a county, a municipality
149 or other public entity or instrumentality and shall include all
150 facilities, including armories, commercial, office, community
151 service and parking facilities and publicly owned facilities
152 constructed or used for the accommodation and entertainment of
153 tourists and visitors, constructed in conjunction with the
154 convention center and forming reasonable appurtenances thereto.

155 (3) *Fiscal year*. — “Fiscal year” means the year beginning
156 July 1 and ending June 30 of the next calendar year.

157 (4) *Net proceeds*. — “Net proceeds” means the gross amount
158 of tax collections less the amount of tax lawfully refunded.

159 (5) *Promotion of the arts*. — “Promotion of the arts” means
160 activity to promote public appreciation and interest in one or
161 more of the arts. It includes the promotion of music for all types,
162 the dramatic arts, dancing, painting and the creative arts through
163 shows, exhibits, festivals, concerts, musicals and plays.

164 (6) *Recreational facilities*. — “Recreational facilities” means
165 and includes any public park, parkway, playground, public
166 recreation center, athletic field, sports arena, stadium, skating
167 rink or arena, golf course, tennis courts and other park and
168 recreation facilities, whether of a like or different nature, that are
169 owned by a county or municipality.

170 (7) *Region*. — “Region” means an area consisting of one or
171 more counties that have agreed by contract to fund a convention
172 and visitor’s bureau to promote those counties.

173 (8) *Regional travel council*. — “Regional travel council”
174 means a nonstock, nonprofit corporation, with a full-time staff
175 working exclusively to promote tourism and to attract
176 conventions, conferences and visitors to the region of this state
177 served by the regional travel council.

178 (9) *Historic site*. — “Historic site” means any site listed on
179 the United States National Register of Historic Places, or listed
180 by a local historical landmarks commission, established under
181 state law, when such sites are owned by a city, a county or a
182 nonprofit historical association and are open, from time to time,
183 to accommodate visitors.

184 (e) Any member of a governing body who willingly and
185 knowingly votes to or causes to be expended moneys generated
186 by the provisions of this section for purposes other than
187 specifically set forth in this section is guilty of a misdemeanor
188 and, upon conviction thereof, shall be fined not more than \$100.

CHAPTER 87

(Com. Sub. for H. B. 2387 - By Delegates Marshall and Moore)

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6 and §5-11A-7 of the Code of West Virginia, 1931, as amended, all relating to reasonable accommodations under the West Virginia Fair Housing Act for persons with disabilities who need assistance animals; defining terms; requiring rules, policies, practices and services related to animals to be subject to reasonable accommodation; providing for the submission of documentation of the disability related need for the assistance animal; providing for the sufficiency of the requested documentation; prohibiting a request for access to medical records or providers; providing for the denial of a request for an accommodation of an assistance animal under certain circumstances; requiring a determination of a direct threat or substantial physical damage to be based on

individualized assessment; prohibiting an unreasonable denial of accommodation; and replacing the term “handicapped” with the term “disability” throughout the article.

Be it enacted by the Legislature of West Virginia:

That §5-11A-3, §5-11A-5, §5-11A-6 and §5-11A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 11A. WEST VIRGINIA FAIR HOUSING ACT.

§5-11A-3. Definitions.

1 As used in this article:

2 (a) “Commission” means the West Virginia Human Rights
3 Commission;

4 (b) “Dwelling” means any building, structure or portion
5 thereof which is occupied as, or designed or intended for
6 occupancy as, a residence or sleeping place by one or more
7 persons or families and any vacant land which is offered for sale
8 or lease for the construction or location thereon of any such
9 building, structure or portion thereof;

10 (c) “Family” includes a single individual;

11 (d) “Person” includes one or more individuals, corporations,
12 partnerships, associations, labor organizations, legal
13 representatives, mutual companies, joint-stock companies, trusts,
14 unincorporated organizations, trustees, trustees in cases under
15 Title 11 of the United States Code, receivers and fiduciaries;

16 (e) “To rent” includes to lease, to sublease, to let and
17 otherwise to grant for a consideration the right to occupy
18 premises not owned by the occupant;

19 (f) “Discriminatory housing practice” means an act that is
20 unlawful under section five, six, seven or nineteen of this article;

21 (g) “Disability” means, with respect to a person:

22 (1) A physical or mental impairment which substantially
23 limits one or more of the person’s major life activities;

24 (2) A record of having such an impairment; or

25 (3) Being regarded as having such an impairment, but the
26 term does not include current, illegal use of or addiction to a
27 controlled substance, as defined in Section 102 of the Controlled
28 Substances Act, Title 21, United States Code, Section 802;

29 (h) “Aggrieved person” includes any person who:

30 (1) Claims to have been injured by a discriminatory housing
31 practice; or

32 (2) Believes that the person will be injured by a
33 discriminatory housing practice that is about to occur;

34 (i) “Complainant” means the person, including the
35 commission, who files a complaint under section eleven of this
36 article;

37 (j) “Familial status” means:

38 (1) One or more individuals who have not attained the age
39 of eighteen years being domiciled with:

40 (A) A parent or another person having legal custody of the
41 individual or individuals; or

42 (B) The designee of the parent or other person having
43 custody of the individual with the written permission of the
44 parent or other person; or

45 (2) Any person who is pregnant or is in the process of
46 securing legal custody of any individual who has not attained the
47 age of eighteen years;

48 (k) “Conciliation” means the attempted resolution of issues
49 raised by a complaint or by the investigation of the complaint
50 through informal negotiations involving the aggrieved person,
51 the respondent and the commission;

52 (l) “Conciliation agreement” means a written agreement
53 setting forth the resolution of the issues in conciliation;

54 (m) “Respondent” means:

55 (1) The person or other entity accused in a complaint of an
56 unfair housing practice; and

57 (2) Any other person or entity identified in the course of
58 investigation and notified as required with respect to respondents
59 identified under subsection (a), section eleven of this article;

60 (n) The term “rooming house” means a house or building
61 where there are one or more bedrooms which the proprietor can
62 spare for the purpose of giving lodgings to persons he or she
63 chooses to receive; and

64 (o) The term “basic universal design” means the design of
65 products and environments to be useable by all people, to the
66 greatest extent possible, without the need for adaptation or
67 specialization.

68 (p) “Assistance animal” means any service, therapy or
69 support animal, weighing less than one hundred fifty pounds,
70 with or without specific training or certification, that works,
71 provides assistance, or performs tasks for the benefit of a person
72 with a disability, or provides emotional support that alleviate one
73 or more identified symptoms or effects of a person’s disability.

§5-11A-5. Discrimination in sale or rental of housing and other prohibited practices.

1 As made applicable by section four of this article and except
2 as exempted by sections four and eight of this article, it is
3 unlawful:

4 (a) To refuse to sell or rent after the making of a bona fide
5 offer, or to refuse to negotiate for the sale or rental of, or
6 otherwise make unavailable or deny, a dwelling to any person
7 because of race, color, religion, ancestry, sex, familial status,
8 blindness, disability or national origin;

9 (b) To discriminate against any person in the terms,
10 conditions or privileges of sale or rental of a dwelling, or in the
11 provision of services or facilities in connection therewith,
12 because of race, color, religion, ancestry, sex, familial status,
13 blindness, disability or national origin;

14 (c) To make, print or publish, or cause to be made, printed
15 or published any notice, statement or advertisement, with respect
16 to the sale or rental of a dwelling that indicates any preference,
17 limitation or discrimination based on race, color, religion, sex,
18 blindness, disability, familial status, ancestry or national origin,
19 or an intention to make any such preference, limitation or
20 discrimination;

21 (d) To represent to any person because of race, color,
22 religion, sex, blindness, disability, familial status, ancestry or
23 national origin that any dwelling is not available for inspection,
24 sale or rental when the dwelling is in fact available;

25 (e) For profit, to induce or attempt to induce any person to
26 sell or rent any dwelling by representations regarding the entry
27 or prospective entry into the neighborhood of a person or persons
28 of a particular race, color, religion, sex, blindness, disability,
29 familial status, ancestry or national origin; or

30 (f) (1) To discriminate in the sale or rental, or to otherwise
31 make unavailable or deny, a dwelling to any buyer or renter
32 because of a disability of: (A) That buyer or renter; (B) a person
33 residing in or intending to reside in that dwelling after it is so
34 sold, rented or made available; or (C) any person associated with
35 that buyer or renter.

36 (2) To discriminate against any person in the terms,
37 conditions or privileges of sale or rental of a dwelling, or in the
38 provision of services or facilities in connection with the
39 dwelling, because of a disability of: (A) That person; (B) a
40 person residing in or intending to reside in that dwelling after it
41 is so sold, rented or made available; or (C) any person associated
42 with that person.

43 (3) For purposes of this subdivision, discrimination includes:

44 (A) A refusal to permit, at the expense of the disabled
45 person, reasonable modifications of existing premises occupied
46 or to be occupied by the person if the modifications may be
47 necessary to afford the person full enjoyment of the premises,
48 except that, in the case of a rental, the landlord may where it is
49 reasonable to do so condition permission for a modification on
50 the renter agreeing to restore the interior of the premises to the
51 condition that existed before the modification, reasonable wear
52 and tear excepted;

53 (B) A refusal to make reasonable accommodations in rules,
54 policies, practices or services when the accommodations may be
55 necessary to afford the person equal opportunity to use and enjoy
56 a dwelling; or

57 (C) In connection with the design and construction of
58 covered multifamily dwellings for first occupancy after the date
59 that is thirty months after the date of enactment of the West
60 Virginia Fair Housing Act, a failure to design and construct
61 those dwellings in a manner that:

62 (i) The public use and common use portions of the dwellings
63 are readily accessible to and usable by disabled persons;

64 (ii) All the doors designed to allow passage into and within
65 all premises within the dwellings are sufficiently wide to allow
66 passage by disabled persons in wheelchairs; and

67 (iii) All premises within the dwellings contain the following
68 features of adaptive design: (I) An accessible route into and
69 through the dwelling; (II) light switches, electrical outlets,
70 thermostats and other environmental controls in accessible
71 locations; (III) reinforcements in bathroom walls to allow later
72 installation of grab bars; and (IV) usable kitchens and bathrooms
73 that an individual in a wheelchair can maneuver about the space.

74 (4) Compliance with the appropriate requirements of the
75 *American National Standard for Buildings and Facilities*
76 *Providing Accessibility and Usability for Physically*
77 *Handicapped People*, commonly cited as ANSI A117.1, suffices
78 to satisfy the requirements of subparagraph (3)(C)(iii) of this
79 subdivision.

80 (5) (A) If a unit of general local government has
81 incorporated into its laws the requirements set forth in
82 subparagraph (3)(C) of this subdivision, compliance with those
83 laws satisfy the requirements of that subparagraph.

84 (B) The commission or unit of general local government
85 may review and approve newly constructed covered multifamily
86 dwellings for the purpose of making determinations as to
87 whether the design and construction requirements of
88 subparagraph (3)(C) of this subdivision are met.

89 (C) The commission shall encourage, but may not require,
90 units of local government to include in their existing procedures
91 for the review and approval of newly constructed covered
92 multifamily dwellings, determinations as to whether the design

93 and construction of such dwellings are consistent with
94 subparagraph (3)(C) of this subdivision, and may provide
95 technical assistance to units of local government and other
96 persons to implement the requirements of that subparagraph.

97 (D) Nothing in this article requires the commission to review
98 or approve the plans, designs or construction of all covered
99 multifamily dwellings to determine whether the design and
100 construction of the dwellings are consistent with the
101 requirements of subparagraph (3)(C) of this subdivision.

102 (6) (A) Nothing in paragraph (5) of this subdivision affects
103 the authority and responsibility of the commission or a local
104 public agency to receive and process complaints or otherwise
105 engage in enforcement activities under this article.

106 (B) Determinations by a unit of general local government
107 under subparagraphs (5)(A) and (B) of this subdivision are not
108 conclusive in enforcement proceedings under this article.

109 (7) As used in this section, the term “covered multifamily
110 dwellings” means: (A) Buildings consisting of four or more units
111 if the buildings have one or more elevators; and (B) ground floor
112 units in other buildings consisting of four or more units.

113 (8) Nothing in this article invalidates or limits any law of
114 this state or any political subdivision of this state that requires
115 dwellings to be designed and constructed in a manner that
116 affords disabled persons greater access than is required by this
117 article.

118 (9) This section does not require that a dwelling be made
119 available to an individual whose tenancy would constitute a
120 direct threat to the health or safety of other individuals or whose
121 tenancy would result in substantial physical damage to the
122 property of others. The burden of proving such threat to health

123 or safety or the likelihood of such damage is upon the
124 respondent.

125 (10) For the purposes of this subdivision, rules, policies,
126 practices or services regarding animals are subject to the
127 reasonable accommodation requirements of subparagraph (B),
128 paragraph (3) of this subdivision and the following provisions:

129 (A) In connection with a request for reasonable
130 accommodation to the rules, policies or services, a person with
131 a disability may be required to submit documentation, from a
132 professional treatment provider, of the disability related need for
133 the assistance animal.

134 (i) Such documentation is sufficient if it establishes that the
135 assistance animal will provide some type of disability-related
136 assistance or emotional support.

137 (ii) A person with a disability may not be required to submit
138 or provide access to medical records or medical providers, or to
139 provide detailed or extensive information or documentation of a
140 person's physical or mental impairments.

141 (B) A person with a disability may be denied the
142 accommodation of an assistance animal if there is credible
143 evidence that:

144 (i) The assistance animal poses a direct threat to the health
145 or safety of others that cannot be eliminated by another
146 reasonable accommodation; or

147 (ii) The assistance animal would cause substantial physical
148 damage to the property of others that cannot be reduced or
149 eliminated by another reasonable accommodation.

150 (C) A determination that an assistance animal poses a direct
151 threat of harm to others or would cause substantial physical

152 damage to the property of others must be based on an
153 individualized assessment that relies on objective evidence about
154 the specific animal's actual conduct.

155 (D) A request for a reasonable accommodation may not be
156 unreasonably denied, conditioned on payment of a fee or deposit
157 or other terms and conditions applied to applicants or residents
158 with pets, and a response may not be unreasonably delayed.

§5-11A-6. Discrimination in residential real estate-related transactions.

1 (a) It is unlawful for any person or other entity whose
2 business includes engaging in residential real estate-related
3 transactions to discriminate against any person in making
4 available such a transaction or in the terms or conditions of such
5 a transaction because of race, color, religion, sex, blindness,
6 disability, familial status, ancestry or national origin.

7 (b) As used in this section, the term "residential real
8 estate-related transaction" means any of the following:

9 (1) The making or purchasing of loans or providing other
10 financial assistance: (A) For purchasing, constructing,
11 improving, repairing or maintaining a dwelling; or (B) secured
12 by residential real estate; or

13 (2) The selling, brokering or appraising of residential real
14 property.

15 (c) Nothing in this article prohibits a person engaged in the
16 business of furnishing appraisals of real property to take into
17 consideration factors other than race, color, religion, national
18 origin, ancestry, sex, blindness, disability or familial status.

§5-11A-7. Discrimination in provision of brokerage services.

1 It is unlawful to deny any person access to or membership or
2 participation in any multiple listing service, real estate broker's

3 organization or other service, organization or facility relating to
4 the business of selling or renting dwellings, or to discriminate
5 against him or her in the terms or conditions of such access,
6 membership or participation on account of race, color, religion,
7 sex, blindness, disability, familial status, ancestry or national
8 origin.

CHAPTER 88

**(Com. Sub. for S. B. 579 - By Senators Unger,
Cookman, Edgell, Laird, Miller, Palumbo, Snyder,
Stollings and Kessler (Mr. President))**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-18E-1, §31-18E-2, §31-18E-3, §31-18E-4, §31-18E-5, §31-18E-6, §31-18E-7, §31-18E-8, §31-18E-9, §31-18E-10, §31-18E-11, §31-18E-12, §31-18E-13, §31-18E-14, §31-18E-15, §31-18E-16, §31-18E-17 and §31-18E-18, all relating to improving housing development and land use; authorizing creation of a land reuse agency by West Virginia municipalities, counties or a combination thereof; stating legislative findings; defining terms; providing requirements for the permissive creation and operation of land reuse agencies; detailing certain requirements for a land reuse agency board and staff; requiring certain terms of the land reuse agency be set forth; providing certain immunity to land reuse jurisdictions; setting forth powers and limitations of land reuse agencies; explicitly stating that land reuse agencies do not have the power of eminent domain; detailing criteria for acquisition and disposition of property by land reuse agencies; authorizing certain land reuse agency property as

exempt from property tax; stating land reuse agency funding sources; stating requirements and constraints on disposition of property; detailing potential financing of land reuse agency operations; permitting special allocation of certain property taxes in certain situations; authorizing the issuance of certain bonds; requiring land reuse agencies to follow open meetings and freedom of information requirements; providing a process for dissolution of land reuse agencies; requiring the Ethics Act to apply to land reuse agency employees and board members; providing for expedited quiet of title proceedings in circuit court; providing for liberal construction of the article; and requiring an annual audit and report of all land reuse agencies.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §31-18E-1, §31-18E-2, §31-18E-3, §31-18E-4, §31-18E-5, §31-18E-6, §31-18E-7, §31-18E-8, §31-18E-9, §31-18E-10, §31-18E-11, §31-18E-12, §31-18E-13, §31-18E-14, §31-18E-15, §31-18E-16, §31-18E-17 and §31-18E-18, all to read as follows:

ARTICLE 18E. WEST VIRGINIA LAND REUSE AGENCY AUTHORIZATION ACT.

§31-18E-1. Short title.

- 1 This article may be known and cited as the West Virginia
- 2 Land Reuse Agency Authorization Act.

§31-18E-2. Legislative findings.

- 1 The Legislature finds and declares that:
- 2 (1) Strong communities are important to the social and
- 3 economic vitality of this state. Whether urban, suburban or rural,

4 many communities are struggling to cope with vacant,
5 abandoned and tax-delinquent properties.

6 (2) Citizens of this state are affected adversely by vacant,
7 abandoned and tax-delinquent properties, including properties
8 which have been vacated or abandoned due to mortgage
9 foreclosure.

10 (3) Vacant, abandoned and tax-delinquent properties impose
11 significant costs on neighborhoods, communities, municipalities
12 and counties by lowering property values, increasing fire and
13 police protection costs, decreasing tax revenues and undermining
14 community cohesion.

15 (4) Vacant, abandoned and tax-delinquent properties
16 contribute to blight, invite crime and pests and provide unsafe
17 play spaces.

18 (5) There is an overriding public need to confront the
19 problems caused by vacant, abandoned and tax-delinquent
20 properties through the creation of new tools to enable
21 municipalities and counties to turn vacant, abandoned and
22 tax-delinquent spaces into vibrant places.

23 (6) Land reuse agencies, often called land banks in other
24 jurisdictions, are one of the tools that municipalities and counties
25 may use to facilitate the return of vacant, abandoned and
26 tax-delinquent properties to productive use.

§31-18E-3. Definitions.

1 As used in this article:

2 (1) "Board" means the board of directors of a land reuse
3 agency;

4 (2) "Deconstruct" means to attempt to remove salvageable
5 pieces of a housing unit prior to or as part of demolition or
6 renovation;

7 (3) “Financial institution” means a bank, savings association,
8 operating subsidiary of a bank or savings association, credit
9 union, association licensed to originate mortgage loans or an
10 assignee of a mortgage or note originated by such an institution;

11 (4) “Land reuse agency” means a public body established
12 under this article;

13 (5) “Land reuse jurisdiction” means: (A) A county or
14 municipality in this state; or (B) two or more municipalities or
15 counties that enter into an intergovernmental cooperation
16 agreement to establish and maintain a land reuse agency;

17 (6) “Municipality” means a municipality as defined in
18 section two, article one, chapter eight of this code; and

19 (7) “Real property” means all lands, including improvements
20 and fixtures on them and property of any nature appurtenant to
21 them or used in connection with them and every estate, interest
22 and right, legal or equitable, in them, including terms of years
23 and liens by way of judgment, mortgage or otherwise, and
24 indebtedness secured by the liens.

§31-18E-4. Creation and existence.

1 (a) *Authority.* — A land reuse jurisdiction may elect to
2 create a land reuse agency by the adoption of an ordinance to
3 create a binding legal obligation. The ordinance must specify the
4 type of entity created and the following:

5 (1) The name of the land reuse agency;

6 (2) The number of members of the board;

7 (3) The names of individuals to serve as initial members of
8 the board;

9 (4) The qualifications, manner of selection or appointment
10 and terms of office of members of the board;

11 (5) The manner by which residents will be provided an
12 opportunity to have input into the land reuse agency
13 decision-making process; and

14 (6) Additional terms and conditions the land reuse
15 jurisdiction deems reasonable and necessary for operation of the
16 land reuse agency that are not inconsistent with this article.

17 (b) *Filing.* — The governing body of the land reuse
18 jurisdiction which creates a land reuse agency shall file a copy
19 of the ordinance with the West Virginia Housing Development
20 Fund and with the Secretary of State. After receipt of the
21 ordinance, the Secretary of State shall issue the appropriate
22 documentation indicating the formation of the entity.

23 (c) *Combinations.* — (1) The authority under subsection (a)
24 of this section may be exercised in combination pursuant to an
25 intergovernmental cooperation agreement by:

26 (A) More than one land reuse jurisdiction; or

27 (B) A land reuse jurisdiction and one or more municipalities
28 or counties.

29 (2) If a land reuse agency is established under subdivision
30 (1) of this subsection, the intergovernmental cooperation
31 agreement must specify matters identified in subsection (a) of
32 this section.

33 (d) *Limitation.* — Except as set forth in subsection (c) of this
34 section, if a county establishes a land reuse agency, the land
35 reuse agency may acquire real property only in those portions of
36 the county located outside of the geographical boundaries of any

37 other land reuse agency established by another land reuse
38 jurisdiction located partially or entirely within the county.

39 (e) *Legal status of land reuse agency.* — A land reuse
40 agency:

41 (1) Is a public body corporate and politic, exercising public
42 and essential governmental functions, and having all the powers
43 necessary or convenient to carry out and effectuate the purposes
44 and provisions of this article; and

45 (2) Exists until terminated and dissolved under section
46 fourteen of this article.

47 (f) *Collaboration.* — A land reuse agency, a political
48 subdivision and another municipal entity may enter into an
49 intergovernmental cooperation agreement relative to the
50 operations of a land reuse agency.

§31-18E-5. Board of directors of a land reuse agency.

1 (a) *Membership.* — A board shall consist of an odd number
2 of members and be not less than five members nor more than
3 eleven members. Unless restricted by the actions or agreements
4 specified in section four of this article and subject to the limits
5 stated in this section, the size of the board may be adjusted in
6 accordance with bylaws of the land reuse agency.

7 (b) *Eligibility to serve on board.* —

8 (1) Notwithstanding any law to the contrary, a public officer
9 is eligible to serve as a board member, and the acceptance of the
10 appointment neither terminates nor impairs that public office;

11 (2) A municipal employee is eligible to serve as a board
12 member;

13 (3) An established land reuse agency board shall include at
14 least one voting member who:

15 (A) Is a resident of the land reuse jurisdiction;

16 (B) Is not a public official or municipal employee; and

17 (C) Maintains membership with a recognized civic
18 organization within the land reuse jurisdiction;

19 (4) A member removed under subdivision (3), subsection (d)
20 of this section is ineligible for reappointment to the board unless
21 the reappointment is confirmed unanimously by the board;

22 (5) As used in this subsection, the term “public officer”
23 means an individual who is elected to office.

24 (c) *Officers.* — The members of the board shall select
25 annually from among their members a chair, vice chair,
26 secretary, treasurer and other officers as the board determines.

27 (d) *Rules.* — The board shall establish rules on all of the
28 following:

29 (1) Duties of officers;

30 (2) Attendance and participation of members in its regular
31 and special meetings;

32 (3) A procedure to remove a member by a majority vote of
33 the other members for failure to comply with a rule; and

34 (4) Other matters necessary to govern the conduct of a land
35 reuse agency.

36 (e) *Vacancies.* — A vacancy on the board shall be filled in
37 the same manner as the original appointment. Upon removal

38 under subdivision (3), subsection (d) of this section, the position
39 becomes vacant.

40 (f) *Compensation.* — Board members serve without
41 compensation. The board may reimburse a member for expenses
42 actually incurred in the performance of duties on behalf of the
43 land reuse agency.

44 (g) *Meetings.* — (1) The board shall meet as follows:

45 (A) In regular session according to a schedule adopted by the
46 board;

47 (B) In special session:

48 (I) As convened by the chair; or

49 (ii) Upon written notice signed by a majority of the
50 members;

51 (2) A majority of the board, excluding vacancies, is a
52 quorum. Physical presence is required under this paragraph.

53 (h) *Voting.* — (1) Except as set forth in subdivision (2) or (3)
54 of this subsection or elsewhere in this article, action of the board
55 must be approved by the affirmative vote of a majority of the
56 board present and voting.

57 (2) Action of the board on the following matters must be
58 approved by a majority of the entire board membership:

59 (A) Adoption of bylaws;

60 (B) Adoption of rules under subsection (d) of this section;

61 (C) Hiring or firing of an employee or contractor of the land
62 reuse agency. This function may, by majority vote of the entire

63 board membership, be delegated by the board to a specified
64 officer or committee of the land reuse agency;

65 (D) Incurring of debt;

66 (E) Adoption or amendment of the annual budget; or

67 (F) Sale, lease, encumbrance or alienation of real property or
68 personal property with a value of more than \$50,000.

69 (3) A resolution under section fourteen of this article,
70 relating to dissolution of a land reuse agency, must be approved
71 by two thirds of the entire board membership.

72 (4) A member of the board may not vote by proxy.

73 (5) A member may request a recorded vote on any resolution
74 or action of the land reuse agency.

75 (i) *Immunity.* — A land reuse jurisdiction which establishes
76 a land reuse agency and a municipality or county which are
77 parties to an intergovernmental cooperation agreement
78 establishing a land reuse agency shall not be liable personally on
79 the bonds or other obligations of the land reuse agency. Rights
80 of creditors of a land reuse agency are solely against the land
81 reuse agency.

§31-18E-6. Staff of the land reuse agency.

1 (a) *Employees.* — A land reuse agency may employ or enter
2 into a contract for an executive director, counsel and legal staff,
3 technical experts and other individuals and may determine the
4 qualifications and fix the compensation and benefits of those
5 employees.

6 (b) *Contracts.* — A land reuse agency may enter into a
7 contract with a municipality or county for:

8 (1) The municipality or county to provide staffing services
9 to the land reuse agency; or

10 (2) The land reuse agency to provide staffing services to the
11 municipality or county.

§31-18E-7. Powers of the land reuse agency.

1 A land reuse agency is a public body, corporate and politic,
2 exercising public and essential governmental functions, and
3 having all the powers necessary or convenient to carry out and
4 effectuate the purposes and provisions of this article, including
5 but not limited to the following:

6 (1) To adopt, amend and repeal bylaws for the regulation of
7 its affairs and the conduct of its business;

8 (2) To sue and be sued in its own name and be a party in a
9 civil action. This paragraph includes an action to clear title to
10 property of the land reuse agency;

11 (3) To adopt a seal and to alter the same at pleasure;

12 (4) To borrow from federal government funds, from the
13 state, from private lenders or from municipalities or counties, as
14 necessary, for the operation and work of the land reuse agency;

15 (5) To issue negotiable revenue bonds and notes according
16 to the provisions of this article;

17 (6) To procure insurance or guarantees from the federal
18 government or the state of the payment of debt incurred by the
19 land reuse agency and to pay premiums in connection with the
20 insurance or guarantee;

21 (7) To enter into contracts and other instruments necessary,
22 incidental or convenient to the performance of its duties and the

23 exercise of its powers. This paragraph includes
24 intergovernmental cooperation agreements for the joint exercise
25 of powers under this article;

26 (8) To enter into contracts and intergovernmental
27 cooperation agreements with municipalities or counties for the
28 performance of functions by municipalities or counties on behalf
29 of the land reuse agency or by the land reuse agency on behalf of
30 municipalities or counties;

31 (9) To make and execute contracts and other instruments
32 necessary or convenient to the exercise of the powers of the land
33 reuse agency. Any contract or instrument signed shall be
34 executed by and for the land reuse agency if the contract or
35 instrument is signed, including an authorized facsimile signature,
36 by:

37 (A) The chair or vice chair of the land reuse agency; and

38 (B) Either:

39 (i) The secretary or assistant secretary of the land reuse
40 agency; or

41 (ii) The treasurer or assistant treasurer of the land reuse
42 agency;

43 (10) To procure insurance against losses in connection with
44 the real property, assets or activities of the land reuse agency;

45 (11) To invest money of the land reuse agency at the
46 discretion of the board in instruments, obligations, securities or
47 property determined proper by the board and to name and use
48 depositories for its money;

49 (12) To enter into contracts for the management of, the
50 collection of rent from or the sale of real property of the land
51 reuse agency;

52 (13) To design, develop, construct, demolish, reconstruct,
53 deconstruct, rehabilitate, renovate, relocate and otherwise
54 improve real property or rights or interests in real property;

55 (14) To fix, charge and collect rents, fees and charges for the
56 use of real property of the land reuse agency and for services
57 provided by the land reuse agency;

58 (15) To grant or acquire licenses, easements, leases or
59 options with respect to real property of the land reuse agency;

60 (16) To enter into partnerships, joint ventures and other
61 collaborative relationships with municipalities, counties and
62 other public and private entities for the ownership, management,
63 development and disposition of real property;

64 (17) To organize and reorganize the executive,
65 administrative, clerical and other departments of the land reuse
66 agency and to fix the duties, powers and compensation of
67 employees, agents and consultants of the land reuse agency; and

68 (18) To do all other things necessary or convenient to
69 achieve the objectives and purposes of the land reuse agency or
70 other law related to the purposes and responsibility of the land
71 reuse agency.

§31-18E-8. Eminent domain.

1 A land reuse agency does not possess the power of eminent
2 domain. Any property obtained by the power of eminent domain
3 after the effective date of this article may not be acquired by a
4 land reuse agency by any means.

§31-18E-9. Acquisition of property.

1 (a) *Title to be held in its name.* — A land reuse agency shall
2 hold in its own name all real property it acquires.

3 (b) *Tax exemption.* — (1) Except as set forth in subdivision
4 (2) of this subsection, the real property of a land reuse agency
5 and its income and operations are exempt from property tax.

6 (2) Subdivision (1) of this subsection does not apply to real
7 property of a land reuse agency after the fifth consecutive year
8 in which the real property is continuously leased to a private
9 third party. However, real property continues to be exempt from
10 property taxes if it is leased to a nonprofit or governmental
11 agency at substantially less than fair market value.

12 (c) *Methods of acquisition.* — A land reuse agency may
13 acquire real property or interests in real property by any means
14 on terms and conditions and in a manner the land reuse agency
15 considers proper: *Provided,* That a land reuse agency may not
16 acquire any interest in oil, gas or minerals which have been
17 severed from the realty.

18 (d) *Acquisitions from municipalities or counties.* — (1) A
19 land reuse agency may acquire real property by purchase
20 contracts, lease purchase agreements, installment sales contracts
21 and land contracts and may accept transfers from municipalities
22 or counties upon terms and conditions as agreed to by the land
23 reuse agency and the municipality or county.

24 (2) A municipality or county may transfer to a land reuse
25 agency real property and interests in real property of the
26 municipality or county on terms and conditions and according to
27 procedures determined by the municipality or county as long as
28 the real property is located within the jurisdiction of the land
29 reuse agency.

30 (3) An urban renewal authority, as defined in section four,
31 article eighteen, chapter sixteen of this code, located within a
32 land reuse jurisdiction established under this article may, with
33 the consent of the local governing body and without a

34 redevelopment contract, convey property to the land reuse
35 agency. A conveyance under this subdivision shall be with fee
36 simple title, free of all liens and encumbrances.

37 (e) *Maintenance.* — A land reuse agency shall maintain all
38 of its real property in accordance with the statutes and
39 ordinances of the jurisdiction in which the real property is
40 located.

41 (f) *Prohibition.* — (1) Subject to the provisions of
42 subdivision (2) of this subsection, a land reuse agency may not
43 own or hold real property located outside the jurisdictional
44 boundaries of the entities which created the land reuse agency
45 under subsection (c), section four of this article.

46 (2) A land reuse agency may be granted authority pursuant
47 to an intergovernmental cooperation agreement with a
48 municipality or county to manage and maintain real property
49 located within the jurisdiction of the municipality or county.

50 (g) *Acquisition of tax delinquent properties.* —
51 Notwithstanding any other provision of this code to the contrary,
52 if authorized by the land reuse jurisdiction which created a land
53 reuse agency or otherwise by intergovernmental cooperation
54 agreement, a land reuse agency may acquire an interest in tax
55 delinquent property through the provisions of chapter eleven-a
56 of this code. Notwithstanding the provisions of section eight,
57 article three, chapter eleven-a of this code, if no person present
58 at the tax sale bids the amount of the taxes, interest and charges
59 due on any unredeemed tract or lot or undivided interest in real
60 estate offered for sale, the sheriff shall, prior to certifying the
61 real estate to the auditor for disposition pursuant to section forty-
62 four, article three, chapter eleven-a of this code, provide a list of
63 all of said real estate within a land reuse jurisdiction to the land
64 reuse agency and the land reuse agency shall be given an
65 opportunity to purchase the tax lien and pay the taxes, interest

66 and charges due for any unredeemed tract or lot or undivided
67 interest therein as if the land reuse agency were an individual
68 who purchased the tax lien at the tax sale.

§31-18E-10. Disposition of property.

1 (a) *Public access to inventory.* — A land reuse agency shall
2 maintain and make available for public review and inspection an
3 inventory of real property held by the land reuse agency.

4 (b) *Power.* — A land reuse agency may convey, exchange,
5 sell, transfer, lease, grant or mortgage interests in real property
6 of the land reuse agency in the form and by the method
7 determined to be in the best interests of the land reuse agency.

8 (c) *Consideration.* — (1) A land reuse agency shall
9 determine the amount and form of consideration necessary to
10 convey, exchange, sell, transfer, lease as lessor, grant or
11 mortgage interests in real property.

12 (2) Consideration may take the form of monetary payments
13 and secured financial obligations, covenants and conditions
14 related to the present and future use of the property, contractual
15 commitments of the transferee and other forms of consideration
16 as determined by the board to be in the best interest of the land
17 reuse agency.

18 (d) *Policies and procedures.* — (1) A board shall determine
19 and state in the land reuse agency policies and procedures the
20 general terms and conditions for consideration to be received by
21 the land reuse agency for the transfer of real property and
22 interests in real property, including but not limited to, a process
23 for distribution of any proceeds to any claimants, taxing entities
24 and the land reuse agency.

25 (2) Requirements which may be applicable to the disposition
26 of real property and interests in real property by municipalities

27 or counties shall not be applicable to the disposition of real
28 property and interests in real property by a land reuse agency.

29 (e) *Ranking of priorities.* — (1) A land reuse jurisdiction
30 may establish a hierarchical ranking of priorities for the use of
31 real property conveyed by a land reuse agency, including use for:

32 (A) Purely public spaces and places;

33 (B) Affordable housing;

34 (C) Conservation areas; and

35 (D) Retail, commercial and industrial activities.

36 (2) The priorities established may be for the entire land reuse
37 jurisdiction or may be set according to the needs of different
38 neighborhoods, municipalities or other locations within the land
39 reuse jurisdiction, or according to the nature of the real property.

40 (f) *Land use plans.* — A land reuse agency shall consider all
41 duly adopted land use plans and make reasonable efforts to
42 coordinate the disposition of land reuse agency real property
43 with the land use plans.

44 (g) *Specific voting and approval requirements.* — (1) A land
45 reuse jurisdiction may, in its ordinance creating a land reuse
46 agency or in the case of multiple land reuse jurisdictions and
47 municipalities or counties creating a single land reuse agency in
48 the applicable intergovernmental cooperation agreement, require
49 that a particular form of disposition of real property or a
50 disposition of real property located within specified jurisdictions
51 be subject to specified voting and approval requirements of the
52 board.

53 (2) Except as restricted or constrained under paragraph (1)
54 of this subsection, the board may delegate to officers and

55 employees the authority to enter into and execute agreements,
56 instruments of conveyance and other related documents
57 pertaining to the conveyance of real property by the land reuse
58 agency.

§31-18E-11. Financing of land reuse agency operations.

1 (a) *General rule.* — A land reuse agency may receive
2 funding through grants and loans from:

3 (1) The federal government;

4 (2) The state;

5 (3) A municipality or county;

6 (4) The land reuse jurisdiction which created the land reuse
7 agency; and

8 (5) Private or other public sources.

9 (b) *Funding.* — A land reuse agency may receive and retain
10 payments for services rendered, for rents and leasehold payments
11 received, for consideration for disposition of real and personal
12 property, for proceeds of insurance coverage for losses incurred,
13 for income from investments and for an asset and activity
14 lawfully permitted to a land reuse agency under this article.

15 (c) *Allocated real property taxes.* — (1) A taxing jurisdiction
16 may authorize the remittance or dedication of a portion of real
17 property taxes collected pursuant to the laws of this state to a
18 land reuse agency on real property conveyed by a land reuse
19 agency.

20 (2) Allocation of property tax revenues in accordance with
21 this subsection, if authorized by the taxing jurisdiction, begins
22 with the first taxable year following the date of conveyance and

23 continues for a period of up to five years and may not exceed a
24 maximum of fifty percent of the aggregate property tax revenues
25 generated by the property.

26 (3) Remittance or dedication of real property taxes include
27 the real property taxes of a county board of education only if the
28 county board of education enters into an agreement with the land
29 reuse agency for the remittance or dedication.

§31-18E-12. Borrowing and issuance of bonds.

1 (a) *Authority.* — (1) A land reuse agency may issue a bond
2 for any of its corporate purposes.

3 (2) The principal and interest of a bond is payable from the
4 land reuse agency's general revenue.

5 (3) The bond may be secured by any of the following:

6 (A) A pledge of revenue. This paragraph includes a grant or
7 contribution from: (i) The federal government or a federal
8 agency or instrumentality; or (ii) the state, a state agency or an
9 instrumentality of the state; or

10 (B) A mortgage of property of the land reuse agency.

11 (b) *Nature.* — The bond is a negotiable instrument under the
12 provisions of article eight, chapter forty-six of this code.

13 (c) *Tax exempt.* — A bond and the income from the bond is
14 exempt from taxation by: (1) The state; and (2) a political
15 subdivision.

16 (d) *Procedure.* — (1) A bond must be authorized by
17 resolution of the board and shall be a limited obligation of the
18 land reuse agency.

19 (2) The principal and interest, costs of issuance and other
20 costs incidental to the bond are payable solely from the income

21 and revenue derived from the sale, lease or other disposition of
22 the assets of the land reuse agency. The land reuse agency may
23 secure the bond by a mortgage or other security device covering
24 all or part of the project from which the pledged revenues may
25 be derived.

26 (3) A refunding bond issued under this section:

27 (A) Is payable from: (i) A source described in this article; or
28 (ii) the investment of the proceeds of the refunding bonds; and

29 (B) Is not an indebtedness or pledge of the general credit of
30 a political subdivision within the meaning of a constitutional or
31 statutory limitation of indebtedness and shall contain a recital to
32 that effect.

33 (4) A bond must comply with the authorizing resolution as
34 to:

35 (A) Form;

36 (B) Denomination;

37 (C) Interest rate;

38 (D) Maturity; and

39 (E) Execution.

40 (5) A bond may be subject to redemption at the option of and
41 in the manner determined by the board in the authorizing
42 resolution.

43 (e) *Powers of municipalities or counties.* — A municipality
44 or county may elect to guarantee, insure or otherwise become
45 primarily or secondarily obligated on the indebtedness of a land
46 reuse agency, subject, however, to all other provisions of law of
47 this state applicable to municipal or county indebtedness.

48 (f) *Sale*. — (1) A bond shall be issued, sold and delivered in
49 accordance with the terms and provisions of the authorizing
50 resolution. The board, to effectuate its best interest, may
51 determine the manner of sale, public or private, and the price of
52 the bond.

53 (2) The resolution issuing a bond must be published in a
54 newspaper of general circulation within the jurisdiction in which
55 the land reuse agency is located.

56 (g) *Liability*. — (1) Neither the members of a land reuse
57 agency nor a person executing the bond shall be liable personally
58 on the bonds by reason of the issuance of the bond.

59 (2) The bond or other obligation of a land reuse agency
60 related to a bond shall not be a debt of a municipality, county or
61 of the state. A statement to this effect shall appear on the face of
62 the bond or obligation.

63 (3) On the bond or other obligation of a land reuse agency
64 related to a bond, all of the following apply:

65 (A) The state has no liability. This paragraph applies to the
66 revenue and property of the state; and

67 (B) A municipality or county has no liability. This paragraph
68 applies to the revenue and property of a municipality or county.

§31-18E-13. Public records and public access.

1 (a) *Public records*. — A board shall keep minutes and a
2 record of its proceedings.

3 (b) *Public access*. — A land reuse agency is subject to
4 article nine-a, chapter six of this code, relating to open meetings,
5 and chapter twenty-nine-b of this code, relating to public
6 records.

§31-18E-14. Dissolution of land reuse agency.

1 (a) *General rule.* — A land reuse agency may be dissolved
2 as a public body corporate and politic upon compliance with all
3 of the following:

4 (1) Sixty calendar days advance written notice of
5 consideration of a resolution to request dissolution must be:

6 (A) Given to the land reuse jurisdiction which created the
7 land reuse agency;

8 (B) Published in a local newspaper of general circulation;
9 and

10 (C) Sent by certified mail to the trustees of outstanding
11 bonds of the land reuse agency;

12 (2) Satisfaction of all outstanding liabilities; and

13 (3) Approval of a resolution requesting dissolution, pursuant
14 to subdivision (3), subsection (h), section five of this article.

15 (b) *Authority.* — Upon receipt of a proper resolution
16 described in subsection (a) of this section, the land reuse
17 jurisdiction which created the land reuse agency may dissolve
18 the land reuse agency by adoption of an ordinance or order. If
19 approved, the governing body of the land reuse jurisdiction
20 which created the land reuse agency shall file a certified copy of
21 the ordinance or order with the Secretary of State and notify the
22 West Virginia Housing Development Fund of the dissolution of
23 the land reuse agency. The Secretary of State shall cause the
24 termination of the existence of the land reuse agency to be noted
25 on the record of incorporation. Upon the filing, the land reuse
26 agency shall cease to function.

27 (c) *Transfer of assets.* — Upon dissolution of the land reuse
28 agency, real property, personal property and other assets of the

29 land reuse agency become the assets of the municipality in
30 which the property is located or the county in which the property
31 is located, if it is not within a municipality. The following apply:

32 (1) Personal property, including financial assets, of the land
33 reuse agency shall be divided among participating land reuse
34 jurisdictions in proportion to the population of each jurisdiction.

35 (2) The municipality in which real property is located or the
36 county in which the property is located, if it is not within a
37 municipality, shall approve the transfer of title to the
38 municipality or county.

39 (d) *Multiple jurisdictions.* — If multiple land reuse
40 jurisdictions create a land reuse agency under section four of this
41 article, the withdrawal of one or more land reuse jurisdictions
42 does not require dissolution of the land reuse agency unless:

43 (1) The intergovernmental cooperation agreement provides
44 for dissolution in this event; and

45 (2) There is no land reuse jurisdiction which desires to
46 continue the existence of the land reuse agency.

§31-18E-15. Conflicts of interest.

1 (a) *Ethics Act.* — The acts and decisions of members of a
2 board and of employees of a land reuse agency are subject to
3 chapter six-b of this code.

4 (b) *Supplemental rules and guidelines.* — The board may
5 adopt:

6 (1) Supplemental rules addressing potential conflicts of
7 interest; and

8 (2) Ethical guidelines for members of the board and land
9 reuse agency employees.

§31-18E-16. Expedited quiet title proceedings.

1 (a) *Authorization.* — (1) A land reuse agency may file an
2 action in circuit court to quiet title to real property in which the
3 land reuse agency has an interest.

4 (2) A land reuse agency may join in a single complaint to
5 quiet title to one or more parcels of real property.

6 (3) For purposes of an action under this section, the land
7 reuse agency shall be deemed to be the holder of sufficient legal
8 and equitable interests and possessory rights so as to qualify the
9 land reuse agency as an adequate complainant in the action.

10 (b) *Procedural requirements.* — (1) Prior to the filing of an
11 action to quiet title, the land reuse agency must conduct an
12 examination of title to determine the identity of any person
13 possessing a claim or interest in or to the real property.

14 (2) Service of the complaint to quiet title shall be provided
15 in accordance with the requirements to serve a civil complaint
16 generally, including that service to interested parties be made as
17 follows:

18 (A) By first class mail to the identity and address reasonably
19 ascertainable by an inspection of public records;

20 (B) In the case of occupied real property, by first class mail,
21 addressed to “occupant”;

22 (C) By posting a copy of the notice on the real property.

23 (D) By publication; and

24 (E) As ordered by the court.

25 (3) As part of the complaint to quiet title, the land reuse
26 agency must file an affidavit identifying:

27 (A) Persons discovered under subdivision (1) of this
28 subsection; and

29 (B) The form of service under subdivision (2) of this
30 subsection.

31 (c) *Hearing.* — (1) The court shall schedule a hearing on the
32 complaint within ninety days following filing of the complaint
33 and as to all matters upon which an answer was not filed by an
34 interested party.

35 (2) The court shall issue its final judgment within one
36 hundred twenty days of the filing of the complaint.

§31-18E-17. Construction, intent and scope.

1 This article shall be construed liberally to effectuate the
2 legislative intent and the purposes as complete and independent
3 authorization for the implementation of this article, and all
4 powers granted shall be broadly interpreted to effectuate the
5 intent and purposes and not as a limitation of powers.

§31-18E-18. Annual audit and report.

1 (a) The land reuse agency shall annually, within one hundred
2 twenty days after the end of the fiscal year, submit an audit of
3 income and expenditures, together with a report of its activities
4 for the preceding year, to the West Virginia Housing
5 Development Fund.

6 (b) A duplicate of the audit and the report shall be filed with
7 the governing body of:

8 (1) The land reuse jurisdiction which created the land reuse
9 agency; and

10 (2) Each political subdivision which opted to participate in
11 the land reuse agency pursuant to an intergovernmental
12 agreement.

CHAPTER 89

**(Com. Sub. for S. B. 267 - By Senators Palumbo,
Kessler (Mr. President), Cookman and Fitzsimmons)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §6-9-2c of the Code of West Virginia, 1931, as amended; and to amend and reenact §12-3-10b of said code, all relating to fraudulent or unauthorized use of purchasing cards; ensuring that the courts of West Virginia have jurisdiction over fraudulent or unauthorized use of purchasing cards; establishing jurisdiction; and defining the conduct as a continuing offense.

Be it enacted by the Legislature of West Virginia:

That §6-9-2c of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §12-3-10b of said code be amended and reenacted, all to read as follows:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 9. SUPERVISION OF LOCAL GOVERNMENT OFFICES.

§6-9-2c. Fraudulent or unauthorized use of purchasing card prohibited; penalties.

- 1 (a) It is unlawful for any person to use a local government
- 2 purchasing card, issued in accordance with the provisions of
- 3 section two-a of this article, to make any purchase of goods or
- 4 services in a manner which is contrary to the provisions of

5 section two-a of this article or the rules promulgated pursuant to
6 that section.

7 (b) It is unlawful for any person to knowingly or
8 intentionally possess with the intent to use a purchasing card
9 without authorization pursuant to section two-a of this article or
10 the rules promulgated pursuant to that section.

11 (c) Any person who violates the provisions of this section is
12 guilty of a felony and, upon conviction thereof, shall be confined
13 in a state correctional facility not less than one year nor more
14 than five years, or fined no more than \$5,000, or both fined and
15 imprisoned.

16 (d) A violation of this section may be prosecuted in the
17 county in which the card was issued, unlawfully obtained,
18 fraudulently used, used without authorization, or where any
19 substantial or material element of the offense occurred.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-10b. Fraudulent or unauthorized use of purchasing card prohibited; penalties.

1 (a) It is unlawful for any person to use a state purchasing
2 card, issued in accordance with the provisions of section ten-a of
3 this article, to make any purchase of goods or services in a
4 manner which is contrary to the provisions of section ten-a of
5 this article or the rules promulgated pursuant to that section.

6 (b) It is unlawful for any person to knowingly or
7 intentionally possess with the intent to use a purchasing card
8 without authorization pursuant to section ten-a of this article or
9 the rules promulgated pursuant to that section.

10 (c) Any person who violates the provisions of this section is
11 guilty of a felony and, upon conviction thereof, shall be
12 imprisoned in the penitentiary not less than one year nor more
13 than five years, or fined no more than \$5,000, or both fined and
14 imprisoned.

15 (d) A violation of this section may be prosecuted in the
16 county in which the card was issued, unlawfully obtained,
17 fraudulently used, used without authorization, or where any
18 substantial or material element of the offense occurred.



CHAPTER 90

**(H. B. 4301 - By Delegates Eldridge, Wells,
Craig, A. Evans, Hamilton, Paxton, White, Marcum,
R. Phillips, Perry and Young)**

[Passed March 4, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 20, 2014.]

AN ACT to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to hunting, trapping and fishing licenses; and permitting limited reciprocal use of hunting and fishing licenses with states which share river borders with this state.

Be it enacted by the Legislature of West Virginia:

That §20-2-28 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-28. When licenses or permits not required.

1 Persons in the following categories are not required to obtain
2 licenses or permits as indicated:

3 (a) Bona fide resident landowners or their resident children,
4 or resident parents, or bona fide resident tenants of the land may
5 hunt, trap or fish on their own land during open season in
6 accordance with the laws and rules applying to the hunting,
7 trapping and fishing without obtaining a license, unless the lands
8 have been designated as a wildlife refuge or preserve.

9 (b) Any bona fide resident of this state who is totally blind
10 may fish in this state without obtaining a fishing license. A
11 written statement or certificate from a duly licensed physician of
12 this state showing the resident to be totally blind shall serve in
13 lieu of a fishing license and shall be carried on the person of the
14 resident at all times while he or she is fishing in this state.

15 (c) All residents of West Virginia on active duty in the
16 armed forces of the United States of America, while on leave or
17 furlough, may hunt, trap or fish in season in West Virginia
18 without obtaining a license. Leave or furlough papers shall serve
19 in lieu of any license and shall be carried on the person at all
20 times while trapping, hunting or fishing.

21 (d) In accordance with the provisions of section twenty-
22 seven of this article, any resident sixty-five years of age or older
23 before January 1, 2012, is not required to have a license to hunt,
24 trap or fish during the legal seasons in West Virginia, but in lieu
25 of the license the person shall at all times while hunting, trapping
26 or fishing carry on his or her person a valid West Virginia
27 driver's license or nondriver identification card issued by the
28 Division of Motor Vehicles.

29 (e) Except as otherwise provided for in this section, residents
30 of states that share river borders with the State of West Virginia
31 who carry hunting or fishing licenses valid in that state may hunt
32 or fish without obtaining licenses, but the hunting or fishing shall

33 be confined to the fish and waterfowl of the river proper and not
34 on its tributaries: *Provided*, That the state shall first enter into a
35 reciprocal agreement with the director extending a like privilege
36 of hunting and fishing to licensed residents of West Virginia
37 without requiring the residents to obtain that state's hunting and
38 fishing licenses.

39 (f) Residents of the State of Ohio who carry hunting or
40 fishing licenses valid in that state may hunt or fish on the Ohio
41 River or from the West Virginia banks of the river without
42 obtaining licenses, but the hunting or fishing shall be confined
43 to fish and waterfowl of the river proper and to points on West
44 Virginia tributaries and embayments identified by the director:
45 *Provided*, That the State of Ohio shall first enter into a reciprocal
46 agreement with the director extending a like privilege of hunting
47 and fishing from the Ohio banks of the river to licensed residents
48 of West Virginia without requiring the residents to obtain Ohio
49 hunting and fishing licenses.

50 (g) Any resident of West Virginia who was honorably
51 discharged from the Armed Forces of the United States of
52 America and who receives a veteran's pension based on total
53 permanent service-connected disability as certified to by the
54 Veterans Administration may hunt, trap or fish in this state
55 without obtaining a license. The director shall propose rules for
56 legislative approval in accordance with the provisions of article
57 three, chapter twenty-nine-a of this code setting forth the
58 procedure for the certification of the veteran, manner of applying
59 for and receiving the certification and requirements as to
60 identification while the veteran is hunting, trapping or fishing.

61 (h) Any disabled veteran who is a resident of West Virginia
62 and who, as certified to by the Commissioner of Motor Vehicles,
63 is eligible to be exempt from the payment of any fee on account
64 of registration of any motor vehicle owned by the disabled
65 veteran as provided in section eight, article ten, chapter

66 seventeen-a of this code shall be permitted to hunt, trap or fish
67 in this state without obtaining a license. The director shall
68 propose rules for legislative approval in accordance with the
69 provisions of article three, chapter twenty-nine-a of this code
70 setting forth the procedure for the certification of the disabled
71 veteran, manner of applying for and receiving the certification
72 and requirements as to identification while the disabled veteran
73 is hunting, trapping or fishing.

74 (i) Any resident or inpatient in any state mental health,
75 health or benevolent institution or facility may fish in this state,
76 under proper supervision of the institution involved, without
77 obtaining a fishing license. A written statement or certificate
78 signed by the superintendent of the mental health, health or
79 benevolent institution or facility in which the resident or
80 inpatient, as the case may be, is institutionalized shall serve in
81 lieu of a fishing license and shall be carried on the person of the
82 resident or inpatient at all times while he or she is fishing in this
83 state.

84 (j) Any resident who is developmentally disabled, as
85 certified by a physician and the Director of the Division of
86 Health, may fish in this state without obtaining a fishing license.
87 As used in this section, "developmentally disabled" means a
88 person with a severe, chronic disability which:

89 (1) Is attributable to a mental or physical impairment or a
90 combination of mental and physical impairments;

91 (2) Is manifested before the person attains age twenty-two;

92 (3) Results in substantial functional limitations in three or
93 more of the following areas of major life activity:

94 (A) Self-care;

95 (B) Receptive and expressive language;

- 96 (C) Learning;
- 97 (D) Mobility;
- 98 (E) Self-direction;
- 99 (F) Capacity for independent living; and
- 100 (G) Economic self-sufficiency; and
- 101 (4) Reflects the person's need for a combination and
102 sequence of care, treatment or supportive services which are of
103 lifelong or extended duration and are individually planned and
104 coordinated.
- 105 (k) A student eighteen years of age or younger receiving
106 instruction in fly fishing in a public, private, parochial or
107 Christian school in this state may fly fish in the state for catch
108 and release only without obtaining a fishing license while under
109 the supervision of an instructor authorized by the school.

CHAPTER 91

**(H. B. 4431 - By Delegates Swartzmiller, Diserio,
D. Poling, Jones, Boggs, Lynch, Young, R. Phillips,
Marcum, Manypenny and Ferro)**

[Passed March 7, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §20-2-37 of the Code of West Virginia, 1931, as amended, relating to clarifying that persons who possess firearms, hunting dogs or other indicia of hunting or taking wildlife in or near fields, woods or streams do not necessarily need to have a hunting license; and requiring the totality of the circumstances be

considered before it can be concluded that a person has been hunting, fishing, trapping or taking wildlife.

Be it enacted by the Legislature of West Virginia:

That §20-2-37 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-37. Display of license, etc., by persons in possession of hunting, fishing, etc., paraphernalia.

1 (a) Any person having in his or her possession in or near the
2 fields or woods, or about the streams of this state, any wildlife,
3 hunting dog or other hunting, fishing or trapping paraphernalia,
4 implements or devices suitable for taking wildlife under
5 circumstances indicating he or she has been hunting, trapping,
6 fishing or otherwise taking wildlife, shall, upon demand of any
7 officer authorized to enforce this chapter:

8 (1) State his or her correct name and address;

9 (2) Exhibit for inspection all license and documents or other
10 lawful authorization for hunting, fishing, trapping or otherwise
11 taking wildlife required to be carried pursuant to this chapter;
12 and

13 (3) Exhibit for inspection all such wildlife, paraphernalia,
14 implements or devices which he or she has in his or her
15 possession.

16 (b) Mere possession of a firearm does not, in and of itself,
17 indicate that a person has been hunting, fishing, trapping or
18 taking wildlife, but may be considered along with other evidence
19 in a determination as to whether a person has been hunting,
20 fishing, trapping or otherwise taking wildlife.

21 (c) Nothing in this section may be construed as authorizing
22 searches that violate article three, section six of the West
23 Virginia Constitution or the Fourth Amendment to the
24 Constitution of the United States, nor may anything in this
25 section be construed as effecting a waiver of these Constitutional
26 provisions.

CHAPTER 92

(Com. Sub. for H. B. 4432 - By Delegates Guthrie,
Hartman, Perry and Ashley)

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on April 1, 2014.]

AN ACT to amend and reenact §33-7-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-13-30 of said code, all relating to adopting Principle Based Reserving as the method by which reserves for life insurance policies, accident and health insurance policies and deposit-type contracts are calculated; removing unnecessary language; and providing a phase-in of the new method upon adoption of Principle Based Reserving by forty-two states representing seventy-five percent of applicable premiums.

Be it enacted by the Legislature of West Virginia:

That §33-7-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §33-13-30 of said code be amended and reenacted, all to read as follows:

ARTICLE 7. ASSETS AND LIABILITIES.

§33-7-9. Standard valuation law.

1 (a) This section shall be known as the standard valuation
2 law. For the purposes of this section, the following definitions
3 apply on or after the operative date of the valuation manual:

4 (1) The term “accident and health insurance” means
5 contracts that incorporate morbidity risk and provide protection
6 against economic loss resulting from accident, sickness, or
7 medical conditions and as may be specified in the valuation
8 manual.

9 (2) The term “appointed actuary” means a qualified actuary
10 who is appointed in accordance with the valuation manual to
11 prepare the actuarial opinion required in subdivision (2),
12 subsection (c) of this section.

13 (3) The term “company” means an entity that has written,
14 issued, or reinsured life insurance contracts, accident and health
15 insurance contracts, or deposit-type contracts in this state and
16 has at least one such policy in force or on claim, or has written,
17 issued, or reinsured life insurance contracts, accident and health
18 insurance contracts, or deposit-type contracts in any state and is
19 required to hold a certificate of authority to write life insurance,
20 accident and health insurance, or deposit-type contracts in this
21 state.

22 (4) The term “deposit-type contract” means contracts that do
23 not incorporate mortality or morbidity risks, and as may be
24 specified in the valuation manual.

25 (5) The term “life insurance” means contracts that
26 incorporate mortality risk, including annuity and pure
27 endowment contracts, and as may be specified in the valuation
28 manual.

29 (6) The term “NAIC” means the National Association of
30 Insurance Commissioners.

31 (7) The term “policyholder behavior” means any action a
32 policyholder, contract holder or any other person with the right
33 to elect options, such as a certificate holder, may take under a
34 policy or contract subject to this section including, but not
35 limited to, lapse, withdrawal, transfer, deposit, premium
36 payment, loan, annuitization, or benefit elections prescribed by
37 the policy or contract but excluding events of mortality or
38 morbidity that result in benefits prescribed in their essential
39 aspects by the terms of the policy or contract.

40 (8) The term “principle-based valuation” means a reserve
41 valuation that uses one or more methods or one or more
42 assumptions determined by the insurer and is required to comply
43 with subsection (o) of this section as specified in the valuation
44 manual.

45 (9) The term “qualified actuary” means an individual who is
46 qualified to sign the applicable statement of actuarial opinion in
47 accordance with the American Academy of Actuaries
48 qualification standards for actuaries signing such statements and
49 who meets the requirements specified in the valuation manual.

50 (10) The term “tail risk” means a risk that occurs either
51 where the frequency of low probability events is higher than
52 expected under a normal probability distribution or where there
53 are observed events of very significant size or magnitude.

54 (11) The term “valuation manual” means the manual of
55 valuation instructions adopted by the commissioner in
56 accordance with subsection (n) of this section.

57 (b) *Reserve valuation. — (1) Policies and Contracts Issued*
58 *Prior to the Operative Date of the Valuation Manual.*

59 (A) The commissioner shall annually value, or cause to be
60 valued, the reserve liabilities (hereinafter called reserves) for all
61 outstanding life insurance policies and annuity and pure

62 endowment contracts of every life insurance company doing
63 business in this state issued on or after January 1, 1958 and prior
64 to the operative date of the valuation manual. In calculating
65 reserves, the commissioner may use group methods and
66 approximate averages for fractions of a year or otherwise. In lieu
67 of the valuation of the reserves herein required of any foreign or
68 alien company, the commissioner may accept any valuation
69 made, or caused to be made, by the insurance supervisory
70 official of any state or other jurisdiction when the valuation
71 complies with the minimum standard provided in this section.

72 (B) Subsections (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m)
73 of this section apply to all policies and contracts, as appropriate,
74 subject to this section issued on or after January 1, 1958 and
75 prior to the operative date of the valuation manual, and
76 subsections (n) and (o) of this section do not apply to any such
77 policies and contracts.

78 (C) The minimum standard for the valuation of policies and
79 contracts issued prior to January 1, 1958 shall be that provided
80 by the laws in effect immediately prior to that date.

81 (2) *Policies and Contracts Issued On or After the Operative*
82 *Date of the Valuation Manual.*

83 (A) The commissioner shall annually value, or cause to be
84 valued, the reserve liabilities (hereinafter called reserves) for all
85 outstanding life insurance contracts, annuity and pure
86 endowment contracts, accident and health contracts, and
87 deposit-type contracts of every company issued on or after the
88 operative date of the valuation manual. In lieu of the valuation
89 of the reserves required of a foreign or alien company, the
90 commissioner may accept a valuation made, or caused to be
91 made, by the insurance supervisory official of any state or other
92 jurisdiction when the valuation complies with the minimum
93 standard provided in this section.

94 (B) Subsection (n) and (o) of this section apply to all policies
95 and contracts issued on or after the operative date of the
96 valuation manual.

97 (c) *Actuarial opinion of reserves. — (1) Actuarial Opinion*
98 *Prior to the Operative Date of the Valuation Manual.*

99 (A) *General.* — Every life insurance company doing
100 business in this state shall annually submit the opinion of a
101 qualified actuary as to whether the reserves and related actuarial
102 items held in support of the policies and contracts specified by
103 the commissioner by rule are computed appropriately, are based
104 on assumptions which satisfy contractual provisions, are
105 consistent with prior reported amounts and comply with
106 applicable laws of this state. The commissioner shall define the
107 specifics of this opinion and add any other items deemed to be
108 necessary to its scope.

109 (B) *Actuarial analysis of reserves and assets supporting the*
110 *reserves.* —

111 (i) Every life insurance company, except as exempted by or
112 pursuant to rule, shall also annually include in the opinion
113 required by paragraph (A) of this subdivision an opinion of the
114 same qualified actuary as to whether the reserves and related
115 actuarial items held in support of the policies and contracts
116 specified by the commissioner by rule, when considered in light
117 of the assets held by the company with respect to the reserves
118 and related actuarial items, including, but not limited to, the
119 investment earnings on the assets and the considerations
120 anticipated to be received and retained under the policies and
121 contracts, make adequate provision for the company's
122 obligations under the policies and contracts, including, but not
123 limited to, the benefits under and expenses associated with the
124 policies and contracts.

125 (ii) The commissioner may provide, by rule, for a transition
126 period for establishing any higher reserves that the qualified
127 actuary may deem necessary in order to render the opinion
128 required by this subdivision.

129 (C) *Requirement for opinion under paragraph (B).* — Each
130 opinion required by paragraph (B) of this subdivision shall be
131 governed by the following provisions:

132 (i) A memorandum in form and substance acceptable to the
133 commissioner as specified by rule shall be prepared to support
134 each actuarial opinion.

135 (ii) If the insurance company fails to provide a supporting
136 memorandum at the request of the commissioner within a period
137 specified by rule or the commissioner determines that the
138 supporting memorandum provided by the insurance company
139 fails to meet the standards prescribed by the rules or is otherwise
140 unacceptable to the commissioner, the commissioner may
141 engage a qualified actuary at the expense of the company to
142 review the opinion and the basis for the opinion and prepare the
143 supporting memorandum required by the commissioner.

144 (D) *Requirement for all opinions subject to this*
145 *subdivision.* — Every opinion subject to this subdivision is
146 governed by the following:

147 (i) The opinion shall be submitted with the annual statement
148 reflecting the valuation of such reserve liabilities for each year
149 ending on or after December 31, 1995.

150 (ii) The opinion shall apply to all business in force, including
151 individual and group health insurance plans, in form and
152 substance acceptable to the commissioner as specified by rule.

153 (iii) The opinion shall be based on standards adopted, from
154 time to time, by the actuarial standards board and on such
155 additional standards as the commissioner may by rule prescribe.

156 (iv) In the case of an opinion required to be submitted by a
157 foreign or alien company, the commissioner may accept the
158 opinion filed by that company with the insurance supervisory
159 official of another state if the commissioner determines that the
160 opinion reasonably meets the requirements applicable to a
161 company domiciled in this state.

162 (v) For the purposes of this section, “qualified actuary”
163 means a member in good standing of the American academy of
164 actuaries who meets the requirements set forth in such
165 regulations.

166 (vi) Except in cases of fraud or willful misconduct, the
167 qualified actuary is not liable for damages to any person (other
168 than the insurance company and the commissioner) for any act,
169 error, omission, decision or conduct with respect to the actuary’s
170 opinion.

171 (vii) Disciplinary action by the commissioner against the
172 company or the qualified actuary shall be defined in rules by the
173 commissioner.

174 (viii) Except as provided in subparagraphs (xii), (xiii), and
175 (xiv) of this paragraph, documents, materials or other
176 information in the possession or control of the commissioner that
177 are a memorandum in support of the opinion and any other
178 material provided by the company to the commissioner in
179 connection therewith are confidential by law and privileged,
180 exempt from disclosure under article one, chapter twenty-nine-a
181 of this code and are not be subject to subpoena and, additionally,
182 are not subject to discovery or admissible in evidence in any
183 private civil action. However, the commissioner is authorized to
184 use the documents, materials or other information in the
185 furtherance of any regulatory or legal action brought as a part of
186 the commissioner’s official duties.

187 (ix) Neither the commissioner nor any person who received
188 documents, materials or other information while acting under the

189 authority of the commissioner is permitted or required to testify
190 in any private civil action concerning any confidential
191 documents, materials or information subject to subparagraph
192 (viii) of this paragraph.

193 (x) In order to assist in the performance of the
194 commissioner's duties, the commissioner:

195 (I) May share documents, materials or other information,
196 including the confidential and privileged documents, materials
197 or information subject to subparagraph viii with other state,
198 federal and international regulatory agencies, with the NAIC and
199 its affiliates and subsidiaries, and with state, federal and
200 international law-enforcement authorities, provided that the
201 recipient agrees to maintain the confidentiality and privileged
202 status of the document, material or other information;

203 (II) May receive documents, materials or information,
204 including otherwise confidential and privileged documents,
205 materials or information, from the NAIC and its affiliates and
206 subsidiaries, and from regulatory and law-enforcement officials
207 of other foreign or domestic jurisdictions, and shall maintain as
208 confidential or privileged any document, material or information
209 received with notice or the understanding that it is confidential
210 or privileged under the laws of the jurisdiction that is the source
211 of the document, material or information; and

212 (III) May enter into agreements governing sharing and use
213 of information consistent with subparagraphs (viii) and (ix) and
214 this subparagraph.

215 (xi) No waiver of any applicable privilege or claim of
216 confidentiality in the documents, materials or information occurs
217 as a result of disclosure to the commissioner under this section
218 or as a result of sharing as authorized in subparagraph (ix).

219 (xii) A memorandum in support of the opinion, and any
220 other material provided by the company to the commissioner in

221 connection with the memorandum, may be subject to subpoena
222 for the purpose of defending an action seeking damages from the
223 actuary submitting the memorandum by reason of an action
224 required by this subsection or by rules.

225 (xiii) The memorandum or other material may otherwise be
226 released by the commissioner with the written consent of the
227 company or to the American Academy of Actuaries upon request
228 stating that the memorandum or other material is required for the
229 purpose of professional disciplinary proceedings and setting
230 forth procedures satisfactory to the commissioner for preserving
231 the confidentiality of the memorandum or other material.

232 (xiv) Once any portion of the confidential memorandum is
233 cited by the company in its marketing or is cited before a
234 governmental agency other than a state insurance department or
235 is released by the company to the news media, all portions of the
236 confidential memorandum shall be no longer confidential.

237 (2) *Actuarial Opinion of Reserves after the Operative Date*
238 *of the Valuation Manual.*

239 (A) *General.* — Every company with outstanding life
240 insurance contracts, accident and health insurance contracts or
241 deposit-type contracts in this state and subject to rule of the
242 commissioner shall annually submit the opinion of the appointed
243 actuary as to whether the reserves and related actuarial items
244 held in support of the policies and contracts are computed
245 appropriately, are based on assumptions that satisfy contractual
246 provisions, are consistent with prior reported amounts and
247 comply with applicable laws of this state. The valuation manual
248 will prescribe the specifics of this opinion including any items
249 deemed to be necessary to its scope.

250 (B) *Actuarial Analysis of Reserves and Assets Supporting*
251 *Reserves.* — Every company with outstanding life insurance
252 contracts, accident and health insurance contracts or deposit-type

253 contracts in this state and subject to rule of the commissioner,
254 except as exempted in the valuation manual, shall also annually
255 include in the opinion required by paragraph (A) of this
256 subdivision, an opinion of the same appointed actuary as to
257 whether the reserves and related actuarial items held in support
258 of the policies and contracts specified in the valuation manual,
259 when considered in light of the assets held by the company with
260 respect to the reserves and related actuarial items, including, but
261 not limited to, the investment earnings on the assets and the
262 considerations anticipated to be received and retained under the
263 policies and contracts, make adequate provision for the
264 company's obligations under the policies and contracts,
265 including, but not limited to, the benefits under and expenses
266 associated with the policies and contracts.

267 (C) *Requirements for Opinions Subject to paragraph (B),*
268 *subdivision (2), subsection (c).* — Each opinion required by
269 subdivision (2), subsection (c) of this section shall be governed
270 by the following:

271 (i) A memorandum, in form and substance as specified in the
272 valuation manual, and acceptable to the commissioner, shall be
273 prepared to support each actuarial opinion.

274 (ii) If the insurance company fails to provide a supporting
275 memorandum at the request of the commissioner within a period
276 specified in the valuation manual or the commissioner
277 determines that the supporting memorandum provided by the
278 insurance company fails to meet the standards prescribed by the
279 valuation manual or is otherwise unacceptable to the
280 commissioner, the commissioner may engage a qualified actuary
281 at the expense of the company to review the opinion and the
282 basis for the opinion and prepare the supporting memorandum
283 required by the commissioner.

284 (D) *Requirement for All Opinions Subject to subdivision (2),*
285 *subsection (c) of this section.* — Every opinion is governed by
286 the following:

287 (i) The opinion shall be in form and substance as specified
288 in the valuation manual and acceptable to the commissioner.

289 (ii) The opinion shall be submitted with the annual statement
290 reflecting the valuation of such reserve liabilities for each year
291 ending on or after the operative date of the valuation manual.

292 (iii) The opinion shall apply to all policies and contracts
293 subject to paragraph (B), subdivision (2), subsection (c) of this
294 section, plus other actuarial liabilities as may be specified in the
295 valuation manual.

296 (iv) The opinion shall be based on standards adopted from
297 time to time by the Actuarial Standards Board or its successor,
298 and on such additional standards as may be prescribed in the
299 valuation manual.

300 (v) In the case of an opinion required to be submitted by a
301 foreign or alien company, the commissioner may accept the
302 opinion filed by that company with the insurance supervisory
303 official of another state if the commissioner determines that the
304 opinion reasonably meets the requirements applicable to a
305 company domiciled in this state.

306 (vi) Except in cases of fraud or willful misconduct, the
307 appointed actuary is not liable for damages to any person, other
308 than the insurance company and the commissioner, for any act,
309 error, omission, decision or conduct with respect to the
310 appointed actuary's opinion.

311 (vii) Disciplinary action by the commissioner against the
312 company or the appointed actuary shall be defined in rules.

313 (d) *Computation of minimum standards.* — Except as
314 otherwise provided in subsections (e), (f) and (m) of this section,
315 the minimum standard for the valuation of all policies and
316 contracts issued prior to January 1, 1958 shall be that provided

317 by the laws in effect immediately prior to that date. Except as
318 otherwise provided in subsections (e), (f) and (m) of this section,
319 the minimum standard for the valuation of all policies and
320 contracts issued on or after January 1, 1958 of this section shall
321 be the commissioners reserve valuation methods defined in
322 subsections (g), (h), (k) and (m) of this section, three and
323 one-half percent interest or in the case of life insurance policies
324 and contracts, other than annuity and pure endowment contracts,
325 issued on or after June 1, 1974, four percent interest for policies
326 issued prior to April 6, 1977, five and one-half percent interest
327 for single premium life insurance policies and four and one-half
328 percent interest for all other policies issued on and after April 6,
329 1977, and the following tables:

330 (1) For all ordinary policies of life insurance issued on the
331 standard basis, excluding any disability and accidental death
332 benefits in the policies:

333 (A) The commissioner's 1941 standard ordinary mortality
334 table for policies issued prior to the operative date of subsection
335 (e), section thirty, article thirteen of this chapter;

336 (B) The commissioner's 1958 standard ordinary mortality
337 table for policies issued on or after the operative date of
338 subsection (e), section thirty, article thirteen of this chapter and
339 prior to the operative date of subsection (g) of that section:
340 *Provided*, That for any category of policies issued on female
341 risks, all modified net premiums and present values referred to
342 in this section may be calculated according to an age not more
343 than six years younger than the actual age of the insured; and

344 (C) For policies issued on or after the operative date of
345 subsection (g), section thirty, article thirteen of this chapter:

346 (i) The commissioner's 1980 standard ordinary mortality
347 table; or

348 (ii) At the election of the company for any one or more
349 specified plans of life insurance, the commissioner's 1980
350 standard ordinary mortality table with ten-year select mortality
351 factors; or

352 (iii) Any ordinary mortality table adopted after the year 1980
353 by the national association of Insurance Commissioners that is
354 approved by rule promulgated by the commissioner for use in
355 determining the minimum standard of valuation for the policies.

356 (2) For all industrial life insurance policies issued on the
357 standard basis, excluding any disability and accidental death
358 benefits in the policies: The 1941 standard industrial mortality
359 table for policies issued prior to the operative date of subsection
360 (f), section thirty, article thirteen of this chapter and for policies
361 issued on or after the operative date, the commissioner's 1961
362 standard industrial mortality table or any industrial mortality
363 table adopted after the year 1980 by the national association of
364 Insurance Commissioners that is approved by rule promulgated
365 by the commissioner for use in determining the minimum
366 standard of valuation for the policies.

367 (3) For individual annuity and pure endowment contracts,
368 excluding any disability and accidental death benefits in policies:
369 The 1937 standard annuity mortality table or, at the option of the
370 company, the annuity mortality table for 1949, ultimate, or any
371 modification of either of these tables approved by the
372 commissioner.

373 (4) For group annuity and pure endowment contracts,
374 excluding any disability and accidental death benefits in the
375 policies: The group annuity mortality table for 1951, any
376 modification of the table approved by the commissioner or, at
377 the option of the company, any of the tables or modifications of
378 tables specified for individual annuity and pure endowment
379 contracts.

380 (5) For total and permanent disability benefits in or
381 supplementary to ordinary policies or contracts: For policies or
382 contracts issued on or after January 1, 1966, the tables of period
383 two disablement rates and the 1930 to 1950 termination rates of
384 the 1952 disability study of the society of actuaries, with due
385 regard to the type of benefit or any tables of disablement rates
386 and termination rates adopted after the year 1980 by the national
387 association of Insurance Commissioners that are approved by
388 rule promulgated by the commissioner for use in determining the
389 minimum standard of valuation for the policies; for policies or
390 contracts issued on or after January 1, 1961, and prior to January
391 1, 1966, either those tables or, at the option of the company, the
392 Class (3) disability table (1926); and for policies issued prior to
393 January 1, 1961, the Class (3) disability table (1926).

394 Any table shall, for active lives, be combined with a
395 mortality table permitted for calculating the reserves for life
396 insurance policies.

397 (6) For accidental death benefits in or supplementary to
398 policies issued on or after January 1, 1966, the 1959 accidental
399 death benefits table or any accidental death benefits table
400 adopted after the year 1980 by the national association of
401 Insurance Commissioners, that is approved by rules promulgated
402 by the commissioner for use in determining the minimum
403 standard of valuation for such policies, for policies issued on or
404 after January 1, 1961, and prior to January 1, 1966, either such
405 table or, at the option of the company, the intercompany double
406 indemnity mortality table; and for policies issued prior to
407 January 1, 1961, the intercompany double indemnity mortality
408 table. Either table shall be combined with a mortality table for
409 calculating the reserves for life insurance policies.

410 (7) For group life insurance, life insurance issued on the
411 substandard basis and other special benefits: Tables as may be
412 approved by the commissioner.

413 (e) *Computation of minimum standard for annuities.* —
414 Except as provided in subsection (f) of this section, the minimum
415 standard for the valuation of all individual annuity and pure
416 endowment contracts issued on or after the operative date of this
417 subsection, and for all annuities and pure endowments purchased
418 on or after the operative date under group annuity and pure
419 endowment contracts shall be the commissioner's reserve
420 valuation methods defined in subsections (g) and (h) of this
421 section and the following tables and interest rates:

422 (1) For individual annuity and pure endowment contracts
423 issued prior to April 6, 1977, excluding any disability and
424 accidental death benefits in the contracts: The 1971 individual
425 annuity mortality table or any modification of this table
426 approved by the commissioner and six percent interest for single
427 premium immediate annuity contracts and four percent interest
428 for all other individual annuity and pure endowment contracts;

429 (2) For individual single premium immediate annuity
430 contracts issued on or after April 6, 1977, excluding any
431 disability and accidental death benefits in such contracts: The
432 1971 individual annuity mortality table or any individual annuity
433 mortality table adopted after the year 1980 by the national
434 association of Insurance Commissioners that is approved by rule
435 promulgated by the commissioner for use in determining the
436 minimum standard of valuation for the contracts or any
437 modification of these tables approved by the commissioner and
438 seven and one-half percent interest;

439 (3) For individual annuity and pure endowment contracts
440 issued on or after April 6, 1977, other than single premium
441 immediate annuity contracts, excluding any disability and
442 accidental death benefits in those contracts: The 1971 individual
443 annuity mortality table or any individual annuity mortality table
444 adopted after the year 1980 by the national association of
445 Insurance Commissioners that is approved by rule promulgated

446 by the commissioner for use in determining the minimum
447 standard of valuation for the contracts or any modification of
448 these tables approved by the commissioner and five and one-half
449 percent interest for single premium deferred annuity and pure
450 endowment contracts and four and one-half percent interest for
451 all other individual annuity and pure endowment contracts;

452 (4) For all annuities and pure endowments purchased prior
453 to April 6, 1977, under group annuity and pure endowment
454 contracts, excluding any disability and accidental death benefits
455 purchased under those contracts: The 1971 group annuity
456 mortality table or any modification of this table approved by the
457 commissioner and six percent interest;

458 (5) For all annuities and pure endowments purchased on or
459 after April 6, 1977, under group annuity and pure endowment
460 contracts, excluding any disability and accidental death benefits
461 purchased under the contracts: The 1971 group annuity mortality
462 table or any group annuity mortality table adopted after the year
463 1980 by the national association of Insurance Commissioners
464 that is approved by rule promulgated by the commissioner for
465 use in determining the minimum standard of valuation for
466 annuities and pure endowments or any modification of these
467 tables approved by the commissioner and seven and one-half
468 percent interest.

469 After June 3, 1974, any company may file with the
470 commissioner a written notice of its election to comply with the
471 provisions of this subsection after a specified date before January
472 1, 1979, which shall be the operative date of this subsection for
473 the company provided, if a company makes no election, the
474 operative date of this section for the company shall be January
475 1, 1979.

476 (f) *Computation of minimum standard by calendar year of*
477 *issue. —*

478 (1) The interest rates used in determining the minimum
479 standard for the valuation of the following shall be the calendar
480 year statutory valuation interest rates as defined in this section:

481 (A) All life insurance policies issued in a particular calendar
482 year, on or after the operative date of subsection (g), section
483 thirty, article thirteen of this chapter, as amended;

484 (B) All individual annuity and pure endowment contracts
485 issued in a particular calendar year on or after January 1, 1982;

486 (C) All annuities and pure endowments purchased in a
487 particular calendar year on or after January 1, 1982, under group
488 annuity and pure endowment contracts; and

489 (D) The net increase, if any, in a particular calendar year
490 after January 1, 1982, in amounts held under guaranteed interest
491 contracts.

492 (2) *Calendar year statutory valuation interest rates.* —

493 (A) The calendar year statutory valuation interest rates, I,
494 shall be determined as follows and the results rounded to the
495 nearer one quarter of one percent:

496 (i) For life insurance, $I = .03 + W(R1 -.03) + W/2(R2 -.09)$;

497 (ii) For single premium immediate annuities and for annuity
498 benefits involving life contingencies arising from other annuities
499 with cash settlement options and from guaranteed interest
500 contracts with cash settlement options, $I = .03 + W(R1) -.03$
501 where R1 is the lesser of R and .09, R2 is the greater of R and
502 .09, R is the reference interest rate defined in this subsection and
503 W is the weighting factor defined in this section;

504 (iii) For other annuities with cash settlement options and
505 guaranteed interest contracts with cash settlement options,

506 valued on an issue-year basis, except as stated in subparagraph
507 (ii) of this paragraph, the formula for life insurance stated in
508 subparagraph (i) of this paragraph shall apply to annuities and
509 guaranteed interest contracts with guarantee durations in excess
510 of ten years and the formula for single premium immediate
511 annuities stated in subparagraph (ii) of this paragraph shall apply
512 to annuities and guaranteed interest contracts with guarantee
513 duration of ten years or less;

514 (iv) For other annuities with no cash settlement options and
515 for guaranteed interest contracts with no cash settlement options,
516 the formula for single premium immediate annuities stated in
517 subparagraph (ii) of this paragraph shall apply;

518 (v) For other annuities with cash settlement options and
519 guaranteed interest contracts with cash settlement options,
520 valued on a change in fund basis, the formula for single premium
521 immediate annuities stated in subparagraph (ii) of this paragraph
522 shall apply.

523 (B) However, if the calendar year statutory valuation interest
524 rate for any life insurance policies issued in any calendar year
525 determined without reference to this sentence differs from the
526 corresponding actual rate for similar policies issued in the
527 immediately preceding calendar year by less than one half of one
528 percent, the calendar year statutory valuation interest rate for
529 such life insurance policies shall be equal to the corresponding
530 actual rate for the immediately preceding calendar year. For
531 purposes of applying the immediately preceding sentence, the
532 calendar year statutory valuation interest rate for life insurance
533 policies issued in a calendar year shall be determined for the year
534 1980 (using the reference interest rate defined for the year 1979)
535 and shall be determined for each subsequent calendar year
536 regardless of when subsection (g), section thirty, article thirteen
537 of this chapter, as amended, becomes operative.

538 (3) *Weighting factors.* —

539 (A) The weighting factors referred to in the formulas stated
540 above are given in the following tables:

541 (i) *Weighting Factors for Life Insurance:*

542 Guarantee		
543 Duration		Weighting
544 (Years)		Factors
545 10 or less		.50
546 More than 10, but not more than 20		.45
547 More than 20		.35

548 For life insurance, the guarantee duration is the maximum
549 number of years the life insurance can remain in force on a basis
550 guaranteed in the policy or under options to convert to plans of
551 life insurance with premium rates or nonforfeiture values or both
552 which are guaranteed in the original policy;

553 (ii) *Weighting factor for single premium immediate*
554 *annuities and for annuity benefits involving life contingencies*
555 *arising from other annuities with cash settlement options and*
556 *guaranteed interest contracts with cash settlement options:* .80;

557 (iii) *Weighting factors for other annuities and for guaranteed*
558 *interest contracts, except as stated in subparagraph (ii) of this*
559 *paragraph, shall be as specified in clauses (I), (II) and (III) of*
560 *this subparagraph, according to the rules and definitions in*
561 *clauses (IV), (V) and (VI) of this subparagraph:*

562 (I) *For annuities and guaranteed interest contracts valued on*
563 *an issue year basis:*

778 INSURANCE [Ch. 92

564	Guarantee	Weighting Factor		
565	Duration	for Plan Type		
566	(Years)	A	B	C
567	5 or less:	.80	.60	.50
568	More than 5, but not more than 10:	.75	.60	.50
569	More than 10, but not more than 20:	.65	.50	.45
570	More than 20:	.45	.35	.35

571 (II) For annuities and guaranteed interest contracts valued on
572 a change in fund basis, the factors shown in clause (I) of this
573 subparagraph increased by:

574	Weighting Factor		
575	for Plan Type		
576	A	B	C1
577	.15	.25	.05

578 (III) For annuities and guaranteed interest contracts valued
579 on an issue-year basis (other than those with no cash settlement
580 options) which do not guarantee interest on considerations
581 received more than one year after issue or purchase and for
582 annuities and guaranteed interest contracts valued on a change
583 in fund basis which do not guarantee interest rates on
584 considerations received more than twelve months beyond the
585 valuation date, the factors shown in clause (I) of this
586 subparagraph or derived in clause (II) of this subparagraph
587 increased by:

588	Weighting Factor		
589	for Plan Type		
590	A	B	C1
591	.05	.05	.05

592 (IV) For other annuities with cash settlement options and
593 guaranteed interest contracts with cash settlement options, the
594 guarantee duration is the number of years for which the contract
595 guarantees interest rates in excess of the calendar year statutory
596 valuation interest rate for life insurance policies with guarantee
597 duration in excess of twenty years. For other annuities with no
598 cash settlement options and for guaranteed interest contracts
599 with no cash settlement options, the guaranteed duration is the
600 number of years from the date of issue or date of purchase to the
601 date annuity benefits are scheduled to commence.

602 (V) Plan type as used in the above tables is defined as
603 follows:

604 Plan Type A:

605 At any time policyholder may withdraw funds only: (1) With
606 an adjustment to reflect changes in interest rates or asset values
607 since receipt of the funds by the insurance company; or (2)
608 without such adjustment but in installments over five years or
609 more; or (3) as an immediate life annuity; or (4) no withdrawal
610 permitted;

611 Plan Type B:

612 Before expiration of the interest rate guarantee, policyholder
613 may withdraw funds only: (1) With an adjustment to reflect
614 changes in interest rates or asset values since receipt of the funds
615 by the insurance company; or (2) without such adjustment but in
616 installments over five years or more; or (3) no withdrawal
617 permitted. At the end of interest rate guarantee, funds may be
618 withdrawn without such adjustment in a single sum or
619 installments over less than five years;

620 Plan Type C:

621 Policyholder may withdraw funds before expiration of
622 interest rate guarantee in a single sum or installments over less
623 than five years either: (1) Without adjustment to reflect changes
624 in interest rates or asset values since receipt of the funds by the
625 insurance company; or (2) subject only to a fixed surrender
626 charge stipulated in the contract as a percentage of the fund.

627 (VI) A company may elect to value guaranteed interest
628 contracts with cash settlement options and annuities with cash
629 settlement options on either an issue-year basis or on a change
630 in fund basis. Guaranteed interest contracts with no cash
631 settlement options and other annuities with no cash settlement
632 options must be valued on an issue-year basis. As used in this
633 section, an issue-year basis of valuation refers to a valuation
634 basis under which the interest rate used to determine the
635 minimum valuation standard for the entire duration of the
636 annuity or guaranteed interest contract is the calendar year
637 valuation interest rate for the year of issue or year of purchase of
638 the annuity or guaranteed interest contract and the change in
639 fund basis of valuation refers to a valuation basis under which
640 the interest rate used to determine the minimum valuation
641 standard applicable to each change in the fund held under the
642 annuity or guaranteed interest contract is the calendar year
643 valuation interest rate for the year of the change in the fund.

644 (4) *The reference interest rate.* —

645 (A) Reference interest rate referred to in subdivision (2) of
646 this subsection is defined as follows:

647 (i) For all life insurance, the lesser of the average over a
648 period of thirty-six months and the average over a period of
649 twelve months, ending on June 30 of the calendar year next
650 preceding the year of issue, of the monthly average of the
651 composite yield on seasoned corporate bonds as published by
652 Moody's Investors Service, Inc.

653 (ii) For single premium immediate annuities and for annuity
654 benefits involving life contingencies arising from other annuities
655 with cash settlement options and guaranteed interest contracts
656 with cash settlement options, the average over a period of twelve
657 months, ending on June 30 of the calendar year of issue or year
658 of purchase, of the monthly average of the composite yield on
659 seasoned corporate bonds as published by Moody's Investors
660 Service, Inc.

661 (iii) For other annuities with cash settlement options and
662 guaranteed interest contracts with cash settlement options,
663 valued on a year of issue basis, except as stated in subparagraph
664 (ii) of this paragraph, with guarantee duration in excess of ten
665 years, the lesser of the average over a period of thirty-six months
666 and the average over a period of twelve months, ending on June
667 30 of the calendar year of issue or purchase, of the monthly
668 average of the composite yield on seasoned corporate bonds as
669 published by Moody's Investors Service, Inc.

670 (iv) For other annuities with cash settlement options and
671 guaranteed interest contracts with cash settlement options,
672 valued on a year of issue basis, except as stated in subparagraph
673 (ii) of this paragraph, with guarantee duration of ten years or
674 less, the average over a period of twelve months, ending on June
675 30 of the calendar year of issue or purchase, of the monthly
676 average of the composite yield on seasoned corporate bonds as
677 published by Moody's Investors Service, Inc.

678 (v) For other annuities with no cash settlement options and
679 for guaranteed interest contracts with no cash settlement options,
680 the average over a period of twelve months, ending on June 30
681 of the calendar year of issue or purchase, of the monthly average
682 of the composite yield on seasoned corporate bonds as published
683 by Moody's Investors Service, Inc.

684 (vi) For other annuities with cash settlement options and
685 guaranteed interest contracts with cash settlement options,

686 valued on a change in fund basis, except as stated in
687 subparagraph (ii) of this paragraph, the average over a period of
688 twelve months, ending on June 30 of the calendar year of the
689 change in the fund, of the monthly average of the composite
690 yield on seasoned corporate bonds as published by Moody's
691 Investors Service, Inc.

692 (5) *Alternative method for determining reference interest*
693 *rates.* —

694 In the event that the monthly average of the composite yield
695 on seasoned corporate bonds is no longer published by Moody's
696 Investors Service, Inc., or in the event that the national
697 association of Insurance Commissioners determines that the
698 monthly average of the composite yield on seasoned corporate
699 bonds as published by Moody's Investors Service, Inc., is no
700 longer appropriate for the determination of the reference interest
701 rate, then an alternative method for determination of the
702 reference interest rate, which is adopted by the national
703 association of Insurance Commissioners and approved by rule
704 promulgated by the commissioner, may be substituted.

705 (g) *Reserve valuation method.* — Life insurance and
706 endowment benefits.

707 Except as otherwise provided in subsections (h), (k) and (m)
708 of this section, reserves according to the commissioners reserve
709 valuation method for the life insurance and endowment benefits
710 of policies providing for a uniform amount of insurance and
711 requiring the payment of uniform premiums shall be the excess,
712 if any, of the present value, at the date of valuation, of the future
713 guaranteed benefits provided by the policies, over the then
714 present value of any future modified net premiums therefor. The
715 modified net premiums for any such policy shall be the uniform
716 percentage of the respective contract premiums for the benefits
717 that the present value, at the date of issue of the policy, of all the

718 modified net premiums shall be equal to the sum of the then
719 present value of the benefits provided by the policy and the
720 excess of subdivision (1) of this subsection over subdivision (2)
721 of this subsection, as follows:

722 (1) A net level annual premium equal to the present value,
723 at the date of issue, of such benefits provided for after the first
724 policy year, divided by the present value, at the date of issue, of
725 an annuity of one per annum payable on the first and each
726 subsequent anniversary of such policy on which a premium falls
727 due: *Provided*, That such net level annual premium shall not
728 exceed the net level annual premium on the nineteen-year
729 premium whole life plan for insurance of the same amount at an
730 age one year higher than the age at issue of such policy.

731 (2) A net one-year term premium for such benefits provided
732 for in the first policy year: *Provided*, That for any life insurance
733 policy issued on or after January 1, 1985, for which the contract
734 premium in the first policy year exceeds that of the second year
735 and for which no comparable additional benefit is provided in
736 the first year for such excess and which provides an endowment
737 benefit or a cash surrender value or a combination thereof in an
738 amount greater than such excess premium, the reserve according
739 to the commissioners' reserve valuation method as of any policy
740 anniversary occurring on or before the assumed ending date
741 defined herein as the first policy anniversary on which the sum
742 of any endowment benefit and any cash surrender value then
743 available is greater than such excess premium shall, except as
744 otherwise provided in subsection (k) of this section, be the
745 greater of the reserve as of such policy anniversary calculated as
746 described in the preceding paragraph and the reserve as of the
747 policy anniversary calculated as described in that paragraph, but
748 with: (i) The value defined in subdivision (1) of that paragraph
749 being reduced by fifteen percent of the amount of such excess
750 first-year premium; (ii) all present values of benefits and
751 premiums being determined without reference to premiums or

752 benefits provided by the policy after the assumed ending date;
753 (iii) the policy being assumed to mature on the date as an
754 endowment; and (iv) the cash surrender value provided on such
755 date being considered as an endowment benefit. In making the
756 above comparison, the mortality and interest bases stated in
757 subsections (d) and (f) of this section shall be used.

758 Reserves according to the commissioners' reserve valuation
759 method shall be calculated by a method consistent with the
760 principles of the preceding paragraphs of this section for: (i) Life
761 insurance policies providing for a varying amount of insurance
762 or requiring the payment of varying premiums; (ii) group annuity
763 and pure endowment contracts purchased under a retirement plan
764 or plan of deferred compensation, established or maintained by
765 an employer (including a partnership or sole proprietorship) or
766 by an employee organization, or by both, other than a plan
767 providing individual retirement accounts or individual retirement
768 annuities under section 408 of the Internal Revenue Code (26
769 U.S.C. §408) as now or hereafter amended; (iii) disability and
770 accidental death benefits in all policies and contracts; and (iv) all
771 other benefits, except life insurance and endowment benefits in
772 life insurance policies and benefits provided by all other annuity
773 and pure endowment contracts, shall be calculated by a method
774 consistent with the principles of the preceding paragraphs of this
775 section.

776 (h) *Reserve valuation method.* — Annuity and pure
777 endowment benefits.

778 (1) This subsection shall apply to all annuity and pure
779 endowment contracts other than group annuity and pure
780 endowment contracts purchased under a retirement plan or plan
781 of deferred compensation established or maintained by an
782 employer (including a partnership or sole proprietorship) or by
783 an employee organization, or by both, other than a plan
784 providing individual retirement accounts or individual retirement

785 annuities under section 408 of the Internal Revenue Code (26
786 U.S.C. §408) as now or hereafter amended.

787 (2) Reserves according to the commissioners' annuity
788 reserve method for benefits under annuity or pure endowment
789 contracts, excluding any disability and accidental death benefits
790 in such contracts, shall be the greatest of the respective excesses
791 of the present values, at the date of valuation, of the future
792 guaranteed benefits, including guaranteed nonforfeiture benefits,
793 provided by such contracts at the end of each respective contract
794 year over the present value, at the date of valuation, of any future
795 valuation considerations derived from future gross
796 considerations, required by the terms of such contract, that
797 become payable prior to the end of the respective contract year.

798 The future guaranteed benefits shall be determined by using
799 the mortality table, if any, and the interest rate, or rates, specified
800 in the contracts for determining guaranteed benefits. The
801 valuation considerations are the portions of the respective gross
802 considerations applied under the terms of such contracts to
803 determine nonforfeiture values.

804 (i) *Minimum reserves.* —

805 (1) In no event shall a company's aggregate reserves for all
806 life insurance policies, excluding disability and accidental death
807 benefits, issued on or after January 1, 1958 be less than the
808 aggregate reserves calculated in accordance with the methods set
809 forth in subsections (g), (h), (k) and (l) of this section and the
810 mortality table or tables and rate or rates of interest used in
811 calculating nonforfeiture benefits for the policies.

812 (2) In no event shall the aggregate reserves for all policies,
813 contracts and benefits be less than the aggregate reserves
814 determined by the qualified actuary to be necessary to render the
815 opinion required by subsection (c) of this section.

816 (j) *Optional reserve calculation.* —

817 (1) Reserves for all policies and contracts issued prior to the
818 effective date of this section may be calculated, at the option of
819 the company, according to any standards which produce greater
820 aggregate reserves for all policies and contracts than the
821 minimum reserves required by the laws in effect immediately
822 prior to such date.

823 (2) Reserves for any category of policies, contracts or
824 benefits as established by the commissioner issued on or after
825 January 1, 1958 may be calculated, at the option of the company,
826 according to any standards which produce greater aggregate
827 reserves for such category than those calculated according to the
828 minimum standard herein provided, but the rate or rates of
829 interest used for policies and contracts, other than annuity and
830 pure endowment contracts, shall not be higher than the
831 corresponding rate or rates of interest used in calculating any
832 nonforfeiture benefits provided therein.

833 (3) Any such company which at any time shall have adopted
834 any standard of valuation producing greater aggregate reserves
835 than those calculated according to the minimum standard herein
836 provided may, with the approval of the commissioner, adopt any
837 lower standard of valuation, but not lower than the minimum
838 herein provided: *Provided*, That for the purposes of this section,
839 the holding of additional reserves previously determined by the
840 appointed actuary to be necessary to render the opinion required
841 by subsection (c) of this section shall not be considered to be the
842 adoption of a higher standard of valuation.

843 (k) *Reserve calculation.* — Valuation net premium
844 exceeding the gross premium charged.

845 (1) If in any contract year the gross premium charged by any
846 life insurance company on any policy or contract is less than the

847 valuation net premium for the policy or contract calculated by
848 the method used in calculating the reserve thereon but using the
849 minimum valuation standards of mortality and rate of interest,
850 the minimum reserve required for such policy or contract shall
851 be the greater of either the reserve calculated according to the
852 mortality table, rate of interest and method actually used for such
853 policy or contract or the reserve calculated by the method
854 actually used for such policy or contract but using the minimum
855 valuation standards of mortality and rate of interest and
856 replacing the valuation net premium by the actual gross premium
857 in each contract year for which the valuation net premium
858 exceeds the actual gross premium. The minimum valuation
859 standards of mortality and rate of interest referred to in this
860 section are those standards stated in subsections (d) and (f) of
861 this section: *Provided*, That for any life insurance policy issued
862 on or after January 1, 1985, for which the gross premium in the
863 first policy year exceeds that of the second year and for which no
864 comparable additional benefit is provided in the first year for
865 such excess and which provides an endowment benefit or a cash
866 surrender value or a combination thereof in an amount greater
867 than such excess premium, the foregoing provisions of this
868 subsection shall be applied as if the method actually used in
869 calculating the reserve for such policy were the method
870 described in subsection (g) of this section, ignoring the second
871 paragraph of said subsection.

872 (2) The minimum reserve at each policy anniversary of such
873 a policy shall be the greater of the minimum reserve calculated
874 in accordance with subsection (g) of this section, including the
875 second paragraph of said section, and the minimum reserve
876 calculated in accordance with this subsection.

877 (1) *Reserve calculation.* — Indeterminate premium plans.

878 In the case of any plan of life insurance which provides for
879 future premium determination, the amounts of which are to be

880 determined by the insurance company based on then estimates
881 of future experience, or in the case of any plan of life insurance
882 or annuity which is of such a nature that the minimum reserves
883 cannot be determined by the methods described in subsections
884 (g), (h) and (k) of this section, the reserves which are held under
885 any such plan must:

886 (1) Be appropriate in relation to the benefits and the pattern
887 of premiums for that plan; and

888 (2) Be computed by a method which is consistent with the
889 principles of this standard valuation law as determined by rules
890 promulgated by the commissioner.

891 (m) The commissioner may, by rule, establish alternative
892 methods of calculating reserve liabilities, which methods shall
893 be used to calculate reserve liabilities for the types of policies,
894 annuities or other contracts identified in the rule: *Provided*, That
895 the method specified in the rule shall be one which, in the
896 opinion of the commissioner and in light of the methods applied
897 to the contracts by the insurance regulators of other states, is
898 appropriate to the contracts. This power shall be in addition to,
899 and in no way diminish, rule-making power granted to the
900 commissioner elsewhere in this code.

901 (n) *Valuation Manual for Policies Issued On or After the*
902 *Operative Date of the Valuation Manual.* —

903 (1) The commissioner shall promulgate emergency rules
904 adopting a valuation manual that is substantially similar to the
905 valuation manual approved by the National Association of
906 Insurance Commissioners and any amendments to such manual
907 as may be subsequently approved by the National Association of
908 Insurance Commissioners, and such rules shall be effective in
909 accordance with subdivisions (2) and (3) of this subsection.

910 (2) The operative date of the valuation manual is January 1
911 of the first calendar year following the first July 1 as of which all
912 of the following have occurred:

913 (A) The valuation manual has been adopted by the National
914 Association of Insurance Commissioners by an affirmative vote
915 of at least forty-two members, or three fourths of the members
916 voting, whichever is greater;

917 (B) The Standard Valuation Law, as amended by the
918 National Association of Insurance Commissioners in 2009, or
919 legislation including substantially similar terms and provisions,
920 has been enacted by states representing greater than seventy-five
921 percent of the direct premiums written as reported in the
922 following annual statements submitted for 2008: Life, accident
923 and health annual statements; health annual statements; and
924 fraternal annual statements; and

925 (C) The Standard Valuation Law, as amended by the
926 National Association of Insurance Commissioners in 2009, or
927 legislation including substantially similar terms and provisions,
928 has been enacted by at least forty-two of the following fifty-five
929 jurisdictions: The fifty states of the United States, American
930 Samoa, the American Virgin Islands, the District of Columbia,
931 Guam, and Puerto Rico.

932 (3) Unless a change in the valuation manual specifies a later
933 effective date, changes to the valuation manual shall be effective
934 on January 1 following the date when such changes have been
935 adopted by the National Association of Insurance
936 Commissioners by an affirmative vote representing:

937 (A) At least three fourths of the members of the National
938 Association of Insurance Commissioners voting, but not less
939 than a majority of the total membership; and

940 (B) Members of the National Association of Insurance
941 Commissioners representing jurisdictions totaling greater than
942 seventy-five percent of the direct premiums written, as reported
943 in the following annual statements most recently available prior
944 to the vote in paragraph (A), of this subdivision: Life, accident
945 and health annual statements, health annual statements, or
946 fraternal annual statements.

947 (4) The valuation manual must specify all of the following:

948 (A) Minimum valuation standards for and definitions of the
949 policies or contracts subject to subdivision (2), subsection (b) of
950 this section. Such minimum valuation standards shall be:

951 (i) The commissioner's reserve valuation method for life
952 insurance contracts, other than annuity contracts, subject to
953 subdivision (2), subsection (b) of this section;

954 (ii) The commissioner's annuity reserve valuation method
955 for annuity contracts subject to subdivision (2), subsection (b) of
956 this section; and

957 (iii) Minimum reserves for all other policies or contracts
958 subject to subdivision (2), subsection (b) of this section.

959 (B) Which policies or contracts or types of policies or
960 contracts that are subject to the requirements of a principle-based
961 valuation in subdivision (1), subsection (o) of this section and
962 the minimum valuation standards consistent with those
963 requirements.

964 (C) For policies and contracts subject to a principle-based
965 valuation under subsection (o) of this section:

966 (i) Requirements for the format of reports to the
967 commissioner under paragraph (C), subdivision (2), subsection
968 (o) of this section and which shall include information necessary

969 to determine if the valuation is appropriate and in compliance
970 with this section;

971 (ii) Assumptions shall be prescribed for risks over which the
972 company does not have significant control or influence; and

973 (iii) Procedures for corporate governance and oversight of
974 the actuarial function and a process for appropriate waiver or
975 modification of such procedures.

976 (D) For policies not subject to a principle-based valuation
977 under subsection (o), the minimum valuation standard shall
978 either:

979 (i) Be consistent with the minimum standard of valuation
980 prior to the operative date of the valuation manual; or

981 (ii) Develop reserves that quantify the benefits and
982 guarantees, and the funding, associated with the contracts and
983 their risks at a level of conservatism that reflects conditions that
984 include unfavorable events that have a reasonable probability of
985 occurring.

986 (E) Other requirements, including, but not limited to, those
987 relating to reserve methods, models for measuring risk,
988 generation of economic scenarios, assumptions, margins, use of
989 company experience, risk measurement, disclosure,
990 certifications, reports, actuarial opinions and memorandums,
991 transition rules and internal controls; and

992 (F) The data and form of the data required under subsection
993 (p) of this section, with whom the data must be submitted, and
994 may specify other requirements including data analyses and
995 reporting of analyses.

996 (5) For policies issued on or after the operative date of the
997 valuation manual, the standard prescribed in the valuation

998 manual is the minimum standard of valuation required under
999 subdivision (2), subsection (b) of this section, except as provided
1000 under subdivision (6) or (8) of this subsection.

1001 (6) In the absence of a specific valuation requirement or if a
1002 specific valuation requirement in the valuation manual is not, in
1003 the opinion of the commissioner, in compliance with this section,
1004 then the company shall, with respect to such requirements,
1005 comply with minimum valuation standards prescribed by rule.

1006 (7) The commissioner may engage a qualified actuary, at the
1007 expense of the company, to perform an actuarial examination of
1008 the company and opine on the appropriateness of any reserve
1009 assumption or method used by the company, or to review and
1010 opine on a company's compliance with any requirement set forth
1011 in this section. The commissioner may rely upon the opinion,
1012 regarding provisions contained within this section, of a qualified
1013 actuary engaged by the commissioner of another state, district or
1014 territory of the United States. As used in this subdivision, term
1015 "engage" includes employment and contracting.

1016 (8) The commissioner may require a company to change any
1017 assumption or method that in the opinion of the commissioner is
1018 necessary in order to comply with the requirements of the
1019 valuation manual or this section, and the company shall adjust
1020 the reserves as required by the commissioner.

1021 (o) *Requirements of a Principle-Based Valuation.* —

1022 (1) A company must establish reserves using a
1023 principle-based valuation that meets the following conditions for
1024 policies or contracts as specified in the valuation manual:

1025 (A) Quantify the benefits and guarantees, and the funding,
1026 associated with the contracts and their risks at a level of
1027 conservatism that reflects conditions that include unfavorable
1028 events that have a reasonable probability of occurring during the

1029 lifetime of the contracts. For policies or contracts with significant
1030 tail risk, reflects conditions appropriately adverse to quantify the
1031 tail risk.

1032 (B) Incorporate assumptions, risk analysis methods and
1033 financial models and management techniques that are consistent
1034 with, but not necessarily identical to, those utilized within the
1035 company's overall risk assessment process, while recognizing
1036 potential differences in financial reporting structures and any
1037 prescribed assumptions or methods.

1038 (C) Incorporate assumptions that are derived in one of the
1039 following manners:

1040 (i) The assumption is prescribed in the valuation manual; or

1041 (ii) For assumptions that are not prescribed, the assumptions
1042 shall either:

1043 (I) Be established utilizing the company's available
1044 experience, to the extent it is relevant and statistically credible;
1045 or

1046 (II) To the extent that company data is not available, relevant
1047 or statistically credible, be established utilizing other relevant,
1048 statistically credible experience.

1049 (D) Provide margins for uncertainty including adverse
1050 deviation and estimation error, such that the greater the
1051 uncertainty, the larger the margin and resulting reserve.

1052 (2) A company using a principle-based valuation for one or
1053 more policies or contracts subject to this section as specified in
1054 the valuation manual shall:

1055 (A) Establish procedures for corporate governance and
1056 oversight of the actuarial valuation function consistent with
1057 those described in the valuation manual.

1058 (B) Provide to the commissioner and the board of directors
1059 an annual certification of the effectiveness of the internal
1060 controls with respect to the principle-based valuation. Such
1061 controls shall be designed to assure that all material risks
1062 inherent in the liabilities and associated assets subject to such
1063 valuation are included in the valuation, and that valuations are
1064 made in accordance with the valuation manual. The certification
1065 shall be based on the controls in place as of the end of the
1066 preceding calendar year.

1067 (C) Develop, and file with the commissioner upon request,
1068 a principle-based valuation report that complies with standards
1069 prescribed in the valuation manual.

1070 (3) A principle-based valuation may include a prescribed
1071 formulaic reserve component.

1072 (p) *Experience Reporting for Policies In Force On or After*
1073 *the Operative Date of the Valuation Manual.* — A company
1074 shall submit mortality, morbidity, policyholder behavior, or
1075 expense experience and other data as prescribed in the valuation
1076 manual.

1077 (q) *Confidentiality.* —

1078 (1) For purposes of this subsection, “confidential
1079 information” means:

1080 (A) A memorandum in support of an opinion submitted
1081 under subsection (c) of this section and any other documents,
1082 materials and other information, including, but not limited to, all
1083 working papers, and copies thereof, created, produced or
1084 obtained by or disclosed to the commissioner or any other person
1085 in connection with such memorandum;

1086 (B) All documents, materials and other information,
1087 including, but not limited to, all working papers, and copies

1088 thereof, created, produced or obtained by or disclosed to the
1089 commissioner or any other person in the course of an
1090 examination made under subdivision (7), subsection (n) of this
1091 section, but only to the same extent as such documents, materials
1092 and other information would be held confidential were they
1093 created, produced or obtained in connection with an examination
1094 made under the general examination law set forth in section nine,
1095 article two of this chapter;

1096 (C) Any reports, documents, materials and other information
1097 developed by a company in support of, or in connection with, an
1098 annual certification by the company under paragraph (B),
1099 subdivision (2), subsection (o) of this section evaluating the
1100 effectiveness of the company's internal controls with respect to
1101 a principle-based valuation and any other documents, materials
1102 and other information, including, but not limited to, all working
1103 papers, and copies thereof, created, produced or obtained by or
1104 disclosed to the commissioner or any other person in connection
1105 with such reports, documents, materials and other information;

1106 (D) Any principle-based valuation report developed under
1107 paragraph (C), subdivision (2), subsection (o) of this section and
1108 any other documents, materials and other information, including,
1109 but not limited to, all working papers, and copies thereof,
1110 created, produced or obtained by or disclosed to the
1111 commissioner or any other person in connection with such
1112 report; and

1113 (E) Any documents, materials, data and other information
1114 submitted by a company under subsection (p) of this section
1115 (collectively, "experience data") and any other documents,
1116 materials, data and other information, including, but not limited
1117 to, all working papers, and copies thereof, created or produced
1118 in connection with such experience data, in each case that
1119 include any potentially company-identifying or personally
1120 identifiable information, that is provided to or obtained by the

1121 commissioner (together with any “experience data”, the
1122 “experience materials”) and any other documents, materials, data
1123 and other information, including, but not limited to, all working
1124 papers, and copies thereof, created, produced or obtained by or
1125 disclosed to the commissioner or any other person in connection
1126 with such experience materials.

1127 (2) *Privilege for, and Confidentiality of, Confidential*
1128 *Information.*

1129 (A) Except as otherwise provided in this subsection, a
1130 company’s confidential information is confidential by law and
1131 privileged, is exempt from disclosure under article one, chapter
1132 twenty-nine-a of this code, is not subject to subpoena, and is not
1133 subject to discovery or admissible in evidence in any private
1134 civil action: *Provided*, That the commissioner is authorized to
1135 use the confidential information in the furtherance of any
1136 regulatory or legal action brought against the company as a part
1137 of the commissioner’s official duties.

1138 (B) Neither the commissioner nor any person who received
1139 confidential information while acting under the authority of the
1140 commissioner is permitted or required to testify in any private
1141 civil action concerning any confidential information.

1142 (C) In order to assist in the performance of the
1143 commissioner’s duties, the commissioner may share confidential
1144 information:

1145 (i) With other state, federal and international regulatory
1146 agencies and with the National Association of Insurance
1147 Commissioners and its affiliates and subsidiaries;

1148 (ii) In the case of confidential information specified in
1149 paragraphs (A) and (D), subdivision (1) of this subsection only,
1150 with the Actuarial Board for Counseling and Discipline or its
1151 successor upon request stating that the confidential information

1152 is required for the purpose of professional disciplinary
1153 proceedings and with state, federal and international law-
1154 enforcement officials; and

1155 (iii) In the case of subparagraphs (i) and (ii) of this
1156 paragraph, provided that such recipient agrees and has the legal
1157 authority to agree, to maintain the confidentiality and privileged
1158 status of such documents, materials, data and other information
1159 in the same manner and to the same extent as required for the
1160 commissioner.

1161 (D) The commissioner may receive documents, materials,
1162 data and other information, including otherwise confidential and
1163 privileged documents, materials, data or information, from the
1164 National Association of Insurance Commissioners and its
1165 affiliates and subsidiaries, from regulatory or law-enforcement
1166 officials of other foreign or domestic jurisdictions, and from the
1167 Actuarial Board for Counseling and Discipline or its successor,
1168 and he or she shall maintain as confidential or privileged any
1169 document, material, data or other information received with
1170 notice or the understanding that it is confidential or privileged
1171 under the laws of the jurisdiction that is the source of the
1172 document, material or other information.

1173 (E) The commissioner may enter into agreements governing
1174 sharing and use of information consistent with this subdivision.

1175 (F) No waiver of any applicable privilege or claim of
1176 confidentiality in the confidential information occurs as a result
1177 of disclosure to the commissioner under this section or as a
1178 result of sharing as authorized in paragraph (C) of this
1179 subdivision.

1180 (G) A privilege established under the law of any state or
1181 jurisdiction that is substantially similar to the privilege
1182 established under this subdivision is available and may be
1183 enforced in any proceeding in, and in any court of, this state.

1184 (H) In this subsection “regulatory agency,” “law-
1185 enforcement agency” and the “NAIC” include, but are not
1186 limited to, their employees, agents, consultants and contractors.

1187 (3) Notwithstanding subdivision (2) of this subsection, any
1188 confidential information specified in paragraphs (A) and (D),
1189 subdivision (1) of this subsection:

1190 (A) May be subject to subpoena for the purpose of defending
1191 an action seeking damages from the appointed actuary
1192 submitting the related memorandum in support of an opinion
1193 submitted under subsection (c) of this section or principle-based
1194 valuation report developed under paragraph (C), subdivision (2),
1195 subsection (o) of this section by reason of an action required by
1196 this section or by rules promulgated hereunder;

1197 (B) May otherwise be released by the commissioner with the
1198 written consent of the company; and

1199 (C) Once any portion of a memorandum in support of an
1200 opinion submitted under subsection (c) of this section or a
1201 principle-based valuation report developed under paragraph (C),
1202 subdivision (2), subsection (o) of this section is cited by the
1203 company in its marketing or is publicly volunteered to or before
1204 a governmental agency other than a state insurance department
1205 or is released by the company to the news media, all portions of
1206 such memorandum or report are no longer be confidential.

ARTICLE 13. LIFE INSURANCE.

§33-13-30. Standard nonforfeiture law for life insurance.

1 (a) In the case of policies issued on or after the original
2 operative date of this subsection as set forth in subsection (l) of
3 this section, no policy of life insurance, except as stated in
4 subsection (k) of this section, shall be delivered or issued for
5 delivery in this state unless it shall contain in substance the

6 following provisions, or corresponding provisions which in the
7 opinion of the commissioner are at least as favorable to the
8 defaulting or surrendering policyholder as are the minimum
9 requirements hereinafter specified and are essentially in
10 compliance with subsection subsection (j) of this section:

11 (1) That, in the event of default in any premium payment, the
12 insurer will grant, upon proper request not later than sixty days
13 after the due date of the premium in default, a paid-up
14 nonforfeiture benefit on a plan stipulated in the policy, effective
15 as of such due date, of such amount as may be hereinafter
16 specified. In lieu of such stipulated paid-up nonforfeiture benefit,
17 the insurer may substitute, upon proper request not later than
18 sixty days after the due date of the premium in default, an
19 actuarially equivalent alternative paid-up nonforfeiture benefit
20 which provides a greater amount or longer period of death
21 benefits or, if applicable, a greater amount or earlier payment of
22 endowment benefits;

23 (2) That, upon surrender of the policy within sixty days after
24 the due date of any premium payment in default after premiums
25 have been paid for at least three full years in the case of ordinary
26 insurance or five full years in the case of industrial insurance, the
27 insurer will pay, in lieu of any paid-up nonforfeiture benefit, a
28 cash surrender value of such amount as may be hereinafter
29 specified;

30 (3) That a specified paid-up nonforfeiture benefit shall
31 become effective as specified in the policy unless the person
32 entitled to make such election elects another available option not
33 later than sixty days after the due date of the premium in default;

34 (4) That, if the policy shall have become paid up by
35 completion of all premium payments or if it is continued under
36 any paid-up nonforfeiture benefit which became effective on or
37 after the third policy anniversary in the case of ordinary

38 insurance or the fifth policy anniversary in the case of industrial
39 insurance the insurer will pay, upon surrender of the policy
40 within thirty days after any policy anniversary, a cash surrender
41 value of such amount as may be hereinafter specified;

42 (5) In the case of policies which cause on a basis guaranteed
43 in the policy unscheduled changes in benefits or premiums, or
44 which provide an option for changes in benefits or premiums
45 other than a change to a new policy, a statement of the mortality
46 table, interest rate and method used in calculating cash surrender
47 values and the paid-up nonforfeiture benefits available under the
48 policy. In the case of all other policies, a statement of the
49 mortality table and interest rate used in calculating the cash
50 surrender values and the paid-up nonforfeiture benefits available
51 under the policy, together with a table showing the cash
52 surrender value, if any, and paid-up nonforfeiture benefits, if
53 any, available under the policy on each policy anniversary either
54 during the first twenty policy years or during the term of the
55 policy, whichever is shorter, such values and benefits to be
56 calculated upon the assumption that there are no dividends or
57 paid-up additions credited to the policy and that there is no
58 indebtedness to the insurer on the policy; and

59 (6) A statement that the cash surrender values and the
60 paid-up nonforfeiture benefits available under the policy are not
61 less than the minimum values and benefits required by or
62 pursuant to the insurance law of the state in which the policy is
63 delivered; an explanation of the manner in which the cash
64 surrender values and the paid-up nonforfeiture benefits are
65 altered by the existence of any paid-up additions credited to the
66 policy or any indebtedness to the company on the policy; if a
67 detailed statement of the method of computation of the values
68 and benefits shown in the policy is not stated therein a statement
69 that such method of computation has been filed with the
70 insurance supervisory official of the state in which the policy is
71 delivered; and a statement of the method to be used in

72 calculating the cash surrender value and paid-up nonforfeiture
73 benefits available under the policy on any policy anniversary
74 beyond the last anniversary for which such values and benefits
75 are consecutively shown in the policy.

76 Any of the foregoing provisions or portions thereof, not
77 applicable by reason of the plan of insurance may, to the extent
78 inapplicable, be omitted from the policy.

79 The insurer shall reserve the right to defer the payment of
80 any cash surrender value for a period of six months after demand
81 therefor with surrender of the policy.

82 (b) *Computation of Cash Surrender Value.* —

83 (1) Any cash surrender value available under the policy in
84 the event of default in a premium payment due on any policy
85 anniversary, whether or not required by subsection (a) of this
86 section, shall be an amount not less than the excess, if any, of the
87 present value, on such anniversary, of the future guaranteed
88 benefits which would have been provided by the policy,
89 including any existing paid-up additions, if there had been no
90 default, over the sum of:

91 (A) The then present value of the adjusted premiums as
92 defined in subsections (d), (e), (f) and (g) of this section,
93 corresponding to premiums which would have fallen due on and
94 after such anniversary; and

95 (B) The amount of any indebtedness to the insurer on the
96 policy: *Provided*, That for any policy issued on or after the
97 operative date of subsection (g) of this section as defined therein,
98 which provides supplemental life insurance or annuity benefits
99 at the option of the insured and for an identifiable additional
100 premium by rider or supplemental policy provision, the cash
101 surrender value referred to in subdivision (1) of this subsection
102 shall be an amount not less than the sum of the cash surrender

103 value for an otherwise similar policy issued at the same age
104 without such rider or supplemental policy provision and the cash
105 surrender value as defined in subdivision (1) of this subsection
106 for a policy which provides only the benefits otherwise provided
107 by such rider or supplemental policy provision: *Provided,*
108 *however,* That for any family policy issued on or after the
109 operative date of subsection (g) of this section, which defines a
110 primary insured and provides term insurance on the life of the
111 spouse of the primary insured expiring before the spouse's age
112 seventy-one, the cash surrender value referred to in the first
113 paragraph of this subsection shall be an amount not less than the
114 sum of the cash surrender value as defined in such paragraph for
115 an otherwise similar policy issued at the same age without such
116 term insurance on the life of the spouse and the cash surrender
117 value as defined in such paragraph for a policy which provides
118 only the benefits otherwise provided by such term insurance on
119 the life of the spouse.

120 (2) Any cash surrender value available within thirty days
121 after any policy anniversary under any policy paid up by
122 completion of all premium payments or any policy continued
123 under any paid-up nonforfeiture benefit, whether or not required
124 by subsection one, shall be an amount not less than the present
125 value, on such anniversary, of the future guaranteed benefits
126 provided by the policy, including any existing paid-up additions
127 decreased by any indebtedness to the insurer on the policy.

128 (c) Any paid-up nonforfeiture benefit available under the
129 policy in the event of default in a premium payment due on any
130 policy anniversary shall be such that its present value as of such
131 anniversary shall be at least equal to the cash surrender value
132 then provided for by the policy or, if none is provided for, that
133 cash surrender value which would have been required by this
134 section in the absence of the condition that premiums shall have
135 been paid for at least a specific period.

136 (d) *Calculation of Adjusted Premiums.* —

137 (1) This subsection does not apply to policies issued on or
138 after the operative date of subsection (g) of this section. Except
139 as provided in subdivision (4) of this subsection, the adjusted
140 premiums for any policy shall be calculated on an annual basis
141 and shall be such uniform percentage of the respective premiums
142 specified in the policy for each policy year, excluding amounts
143 stated in the policy as extra premiums to cover impairments or
144 special hazards, that the present value, at the date of issue of the
145 policy, of all such adjusted premiums shall be equal to the sum
146 of:

147 (A) The then present value of the future guaranteed benefits
148 provided by the policy;

149 (B) Two percent of the amount of insurance, if the insurance
150 be uniform in amount, or of the equivalent uniform amount, as
151 hereinafter defined, if the amount of insurance varies with
152 duration of the policy;

153 (C) Forty percent of the adjusted premium for the first policy
154 year;

155 (D) Twenty-five percent of either the adjusted premium for
156 the first policy year or the adjusted premium for a whole life
157 policy of the same uniform or equivalent uniform amount with
158 uniform premiums for the whole of life issued at the same age
159 for the same amount of insurance, whichever is less.

160 (2) In applying the percentages specified in no adjusted
161 premium shall be deemed to exceed four percent of the amount
162 of insurance or uniform amount equivalent thereto. The date of
163 issue of a policy for the purpose of this subsection shall be the
164 date as of which the rated age of the insured is determined.

165 (3) In the case of a policy providing an amount of insurance
166 varying with duration of the policy, the equivalent uniform
167 amount for the purpose of this subsection shall be deemed to be
168 the uniform amount of insurance provided by an otherwise
169 similar policy, containing the same endowment benefit or
170 benefits, if any, issued at the same age and for the same term, the
171 amount of which does not vary with duration and the benefits
172 under which have the same present value at the date of issue as
173 the benefits under the policy.

174 (4) The adjusted premiums for any policy providing term
175 insurance benefits by rider or supplemental policy provision
176 shall be equal to:

177 (A) The adjusted premiums for an otherwise similar policy
178 issued at the same age without such term insurance benefits,
179 increased, during the period for which premiums for such term
180 insurance benefits are payable, by;

181 (B) The adjusted premiums for such term insurance; and

182 (C) Paragraphs (A) and (B) of this subdivision being
183 calculated separately and as specified in subdivisions (1), (2) and
184 (3) of this subsection except that, for the purposes of paragraphs
185 (B), (C) and (D), subdivision (1) of this subsection, the amount
186 of insurance or equivalent uniform amount of insurance used in
187 the calculation of the adjusted premiums referred to in paragraph
188 (B), subdivision (1) of this subsection shall be equal to the
189 excess of the corresponding amount determined for the entire
190 policy over the amount used in the calculation of the adjusted
191 premiums in paragraph (A), subdivision (4) of this subsection.

192 (5) Except as otherwise provided in subsections (e) and (f)
193 of this section, all adjusted premiums and present values referred
194 to in this section shall for all policies of ordinary insurance be
195 calculated on the basis of the Commissioners 1941 Standard

196 Ordinary Mortality Table: *Provided*, That for any category of
197 ordinary insurance issued on female risks, adjusted premiums
198 and present values may be calculated according to an age not
199 more than three years younger than the actual age of the insured,
200 and such calculations for all policies of industrial insurance shall
201 be made on the basis of the 1941 Standard Industrial Mortality
202 Table. All calculations shall be made on the basis of the rate of
203 interest, not exceeding three and one-half percent per annum,
204 specified in the policy for calculating cash surrender values and
205 paid-up nonforfeiture benefits: *Provided, however*, That in
206 calculating the present value of any paid-up term insurance with
207 accompanying pure endowment, if any, offered as a
208 nonforfeiture benefit, the rates of mortality assumed may be not
209 more than one hundred and thirty percent of the rates of
210 mortality according to such applicable table: *Provided further*,
211 That for insurance issued on a substandard basis, the calculation
212 of any such adjusted premiums and present values may be based
213 on such other table of mortality as may be specified by the
214 insurer and approved by the commissioner.

215 (e) This subsection does not apply to ordinary policies issued
216 on or after the operative date of subsection (g) of this section. In
217 the case of ordinary policies issued on or after the operative date
218 of this subsection, all adjusted premiums and present values
219 referred to in this section shall be calculated on the basis of the
220 Commissioners 1958 Standard Ordinary Mortality Table and the
221 rate of interest specified in the policy for calculating cash
222 surrender values and paid-up nonforfeiture benefits provided that
223 such rate of interest shall not exceed three and one-half percent
224 per annum except that a rate of interest not exceeding four
225 percent per annum may be used for policies issued on or after
226 June 3, 1974 and prior to April 6, 1977, and a rate of interest not
227 exceeding five and one-half percent per annum may be used for
228 policies issued on or after April 6, 1977, except that for any
229 single premium whole life or endowment insurance policy a rate
230 of interest not exceeding six and one-half percent per annum

231 may be used: *Provided*, That for any category of ordinary
232 insurance issued on female risks, adjusted premiums and present
233 values may be calculated according to an age not more than six
234 years younger than the actual age of the insured: *Provided*,
235 *however*, That in calculating the present value of any paid-up
236 term insurance with accompanying pure endowment, if any,
237 offered as a nonforfeiture benefit, the rates of mortality assumed
238 may be not more than those shown in the Commissioners 1958
239 Extended Term Insurance Table: *Provided further*, That for
240 insurance issued on a substandard basis, the calculation of any
241 such adjusted premiums and present values may be based on
242 such other table of mortality as may be specified by the company
243 and approved by the commissioner.

244 After June 3, 1959, any company may file with the
245 commissioner a written notice of its election to comply with the
246 provisions of this subsection after a specified date before January
247 1, 1966. After the filing of such notice, then upon such specified
248 date (which shall be the operative date of this subsection for such
249 company), this subsection shall become operative with respect
250 to the ordinary policies thereafter issued by such company. If a
251 company makes no such election, the operative date of this
252 subsection for such company shall be January 1, 1966.

253 (f) This subsection does not apply to industrial policies
254 issued on or after the operative date of subsection (g) of this
255 section. In the case of industrial policies issued on or after the
256 operative date of this subsection, all adjusted premiums and
257 present values referred to in this section shall be calculated on
258 the basis of the Commissioners 1961 Standard Industrial
259 Mortality Table and the rate of interest specified in the policy for
260 calculating cash surrender values and paid-up nonforfeiture
261 benefits provided that such rate of interest shall not exceed three
262 and one-half percent per annum except that a rate of interest not
263 exceeding four percent per annum may be used for policies
264 issued on or after June 3, 1974 and prior to April 6, 1977, and a

265 rate of interest not exceeding five and one-half percent per
266 annum may be used for policies issued on or after April 6, 1977,
267 except that for any single premium whole life or endowment
268 insurance policy a rate of interest not exceeding six and one-half
269 percent per annum may be used: *Provided*, That in calculating
270 the present value of any paid-up term insurance with
271 accompanying pure endowment, if any, offered as a
272 nonforfeiture benefit, the rates of mortality assumed may be not
273 more than those shown in the Commissioners 1961 Industrial
274 Extended Term Insurance Table: *Provided, however*, That for
275 insurance issued on a substandard basis, the calculation of any
276 such adjusted premiums and present values may be based on
277 such other table of mortality as may be specified by the company
278 and approved by the commissioner.

279 After May 31, 1965, any company may file with the
280 commissioner a written notice of its election to comply with the
281 provisions of this subsection after a specified date before January
282 1, 1968. After the filing of such notice, then upon such specified
283 date (which shall be the operative date of this subsection for such
284 company), this subsection shall become operative with respect
285 to the industrial policies thereafter issued by such company. If a
286 company makes no such election, the operative date of this
287 subsection for such company shall be January 1, 1968.

288 (g)(1) This subsection applies to all policies issued on or
289 after the operative date of this subsection. Except as provided in
290 subdivision (7) of this subsection, the adjusted premiums for any
291 policy shall be calculated on an annual basis and shall be such
292 uniform percentage of the respective premiums specified in the
293 policy for each policy year, excluding amounts payable as extra
294 premiums to cover impairments or special hazards and also
295 excluding any uniform annual contract charge or policy fee
296 specified in the policy in a statement of the method to be used in
297 calculating the cash surrender values and paid-up nonforfeiture

298 benefits, that the present value, at the date of issue of the policy,
299 of all adjusted premiums shall be equal to the sum of;

300 (A) The then present value of the future guaranteed benefits
301 provided for by the policy;

302 (B) One percent of either the amount of insurance, if the
303 insurance be uniform in amount, or the average amount of
304 insurance at the beginning of each of the first ten policy years;
305 and

306 (C) One hundred twenty-five percent of the nonforfeiture net
307 level premium as hereinafter defined: *Provided*, That in applying
308 this percentage no nonforfeiture net level premium shall be
309 deemed to exceed four percent of either the amount of insurance,
310 if the insurance be uniform in amount, or the average amount of
311 insurance at the beginning of each of the first ten policy years.
312 The date of issue of a policy for the purpose of this subsection
313 shall be the date as of which the rated age of the insured is
314 determined;

315 (2) The nonforfeiture net level premium shall be equal to the
316 present value, at the date of issue of the policy, of the guaranteed
317 benefits provided by the policy divided by the present value, at
318 the date of issue of the policy, of an annuity of one per annum
319 payable on the date of issue of the policy and on each
320 anniversary of such policy on which a premium falls due;

321 (3) In the case of policies which cause on a basis guaranteed
322 in the policy unscheduled changes in benefits or premiums, or
323 which provide an option for changes in benefits or premiums
324 other than a change to a new policy, the adjusted premiums and
325 present values shall initially be calculated on the assumption that
326 future benefits and premiums do not change from those
327 stipulated at the date of issue of the policy. At the time of any
328 such change in the benefits or premiums the future adjusted

329 premiums, nonforfeiture net level premiums and present values
330 shall be recalculated on the assumption that future benefits and
331 premiums do not change from those stipulated by the policy
332 immediately after the change;

333 (4) Except as otherwise provided in subdivision (7) of this
334 subsection, the recalculated future adjusted premiums for any
335 such policy shall be such uniform percentage of the respective
336 future premiums specified in the policy for each policy year,
337 excluding amounts payable as extra premiums to cover
338 impairments and special hazards, and also excluding any
339 uniform annual contract charge or policy fee specified in the
340 policy in a statement of the method to be used in calculating the
341 cash surrender values and paid-up nonforfeiture benefits, that the
342 present value, at the time of change to the newly defined benefits
343 or premiums, of all such future adjusted premiums shall be equal
344 to the excess of:

345 (A) The sum of:

346 (i) The then present value of the then future guaranteed
347 benefits provided by the policy; and

348 (ii) The additional expense allowance, if any, over

349 (B) The then cash surrender value, if any, or present value of
350 any paid-up nonforfeiture benefit under the policy;

351 (5) The additional expense allowance, at the time of the
352 change to the newly defined benefits or premiums, shall be the
353 sum of:

354 (A) One percent of the excess, if positive, of the average
355 amount of insurance at the beginning of each of the first ten
356 policy years subsequent to the change over the average amount
357 of insurance prior to the change at the beginning of each of the
358 first ten policy years subsequent to the time of the most recent

359 previous change, or, if there has been no previous change, the
360 date of issue of the policy; and

361 (B) One hundred twenty-five percent of the increase, if
362 positive, in the nonforfeiture net level premium;

363 (6) The recalculated nonforfeiture net level premium shall be
364 equal to the result obtained by dividing paragraph (A) of this
365 subdivision by paragraph (B) of this subdivision where:

366 (A) Equals the sum of:

367 (i) The nonforfeiture net level premium applicable prior to
368 the change times the present value of an annuity of one per
369 annum payable on each anniversary of the policy on or
370 subsequent to the date of the change on which a premium would
371 have fallen due had the change not occurred; and

372 (ii) The present value of the increase in future guaranteed
373 benefits provided for by the policy;

374 (B) Equals the present value of an annuity of one per annum
375 payable on each anniversary of the policy on or subsequent to
376 the date of change on which a premium falls due.

377 (7) Notwithstanding any other provisions of this subsection
378 to the contrary, in the case of a policy issued on a substandard
379 basis which provides reduced graded amounts of insurance so
380 that, in each policy year, such policy has the same tabular
381 mortality cost as an otherwise similar policy issued on the
382 standard basis which provides higher uniform amounts of
383 insurance, adjusted premiums and present values for such
384 substandard policy may be calculated as if it were issued to
385 provide such higher uniform amounts of insurance on the
386 standard basis;

387 (8) All adjusted premiums and present values referred to in
388 this section shall for all policies of ordinary insurance be

389 calculated on the basis of (i) the Commissioners 1980 Standard
390 Ordinary Mortality Table or (ii) at the election of the company
391 for any one or more specified plans of life insurance, the
392 Commissioners 1980 Standard Ordinary Mortality Table with
393 ten-year select mortality factors; shall for all policies of
394 industrial insurance be calculated on the basis of the
395 Commissioners 1961 Standard Industrial Mortality Table; and
396 shall for all policies issued in a particular calendar year be
397 calculated on the basis of a rate of interest not exceeding the
398 nonforfeiture interest rate as defined in this subsection for
399 policies issued in that calendar year: *Provided, That:*

400 (A) At the option of the company, calculations for all
401 policies issued in a particular calendar year may be made on the
402 basis of a rate of interest not exceeding the nonforfeiture interest
403 rate, as defined in this subsection, for policies issued in the
404 immediately preceding calendar year;

405 (B) Under any paid-up nonforfeiture benefit, including any
406 paid-up dividend additions, any cash surrender value available,
407 whether or not required by subsection(a) of this section, shall be
408 calculated on the basis of the mortality table and rate of interest
409 used in determining the amount of such paid-up nonforfeiture
410 benefit and paid-up dividend additions, if any;

411 (C) A company may calculate the amount of any guaranteed
412 paid-up nonforfeiture benefit including any paid-up additions
413 under the policy on the basis of an interest rate no lower than
414 that specified in the policy for calculating cash surrender values;

415 (D) In calculating the present value of any paid-up term
416 insurance with accompanying pure endowment, if any, offered
417 as a nonforfeiture benefit, the rates of mortality assumed may be
418 not more than those shown in the Commissioners 1980 Extended
419 Term Insurance Table for policies of ordinary insurance and not
420 more than the Commissioners 1961 Industrial Extended Term
421 Insurance Table for policies of industrial insurance;

422 (E) For insurance issued on a substandard basis, the
423 calculation of any such adjusted premiums and present values
424 may be based on appropriate modifications of the
425 aforementioned tables;

426 (F) For policies issued prior to the operative date of the
427 valuation manual, any Commissioners Standard ordinary
428 mortality tables, adopted after 1980 by the National Association
429 of Insurance Commissioners, that are approved by rule
430 promulgated by the commissioner for use in determining the
431 minimum nonforfeiture standard may be substituted for the
432 Commissioners 1980 Standard Ordinary Mortality Table with or
433 without ten-year select mortality factors or for the
434 Commissioners 1980 Extended Term Insurance Table. For
435 policies issued on or after the operative date of the valuation
436 manual the valuation manual shall provide the Commissioner's
437 Standard mortality table for use in determining the minimum
438 nonforfeiture standard that may be substituted for the
439 Commissioner's 1980 Standard Ordinary Mortality Table with
440 or without Ten-Year Select Mortality Factors or for the
441 Commissioners 1980 Extended Term Insurance Table. If the
442 commissioner approves by rule any Commissioners Standard
443 ordinary mortality table adopted by the National Association of
444 Insurance Commissioners for use in determining the minimum
445 nonforfeiture standard for policies issued on or after the
446 operative date of the valuation manual then that minimum
447 nonforfeiture standard supersedes the minimum nonforfeiture
448 standard provided by the valuation manual. For purposes of this
449 paragraph, paragraph (G) of this subdivision and subdivision (9)
450 of this subsection, the operative date of the valuation manual is
451 that date determined in accordance with subsection (n), section
452 nine, article seven of this chapter;

453 (G) For policies issued prior to the operative date of the
454 valuation manual, any industrial mortality tables, adopted after
455 1980 by the National Association of Insurance Commissioners,

456 that are approved by rule promulgated by the commissioner for
457 use in determining the minimum nonforfeiture standard may be
458 substituted for the Commissioners 1961 Standard Industrial
459 Mortality Table or the Commissioners 1961 Industrial Extended
460 Term Insurance Table. For policies issued on or after the
461 operative date of the valuation manual, the valuation manual
462 shall provide the Commissioners Standard Mortality Table for
463 use in determining the minimum nonforfeiture standard that may
464 be substituted for the Commissioners 1961 Standard Industrial
465 Mortality Table or the Commissioners 1961 Industrial Extended
466 Term Insurance Table: *Provided*, That if the Legislature
467 approves a rule providing that a Commissioners Standard
468 Industrial Mortality Table adopted by the National Association
469 of Insurance Commissioners shall be used in determining the
470 minimum nonforfeiture standard for policies issued on or after
471 the operative date of the valuation manual, then that minimum
472 nonforfeiture standard supersedes the minimum nonforfeiture
473 standard provided by the valuation manual;

474 (9) The nonforfeiture interest rate per annum for any policy
475 issued in a particular calendar year shall be equal to one hundred
476 and twenty-five percent of the calendar year statutory valuation
477 interest rate for such policy as defined in the Standard Valuation
478 Law, rounded to the nearer one quarter of one percent: *Provided*,
479 That, that the nonforfeiture interest rate may not be less than four
480 percent. For policies issued on and after the operative date of the
481 valuation manual the nonforfeiture interest rate per annum for
482 any policy issued in a particular calendar year shall be provided
483 by the valuation manual;

484 (10) Notwithstanding any other provision in this code to the
485 contrary, any refiling of nonforfeiture values or their methods of
486 computation for any previously approved policy form which
487 involves only a change in the interest rate or mortality table used
488 to compute nonforfeiture values shall not require refiling of any
489 other provisions of that policy form; and

490 (11) After May 30, 1983, any company may file with the
491 commissioner a written notice of its election to comply with the
492 provisions of this section after a specified date before January 1,
493 1989, which shall be the operative date of this subsection for
494 such company. If a company makes no such election, the
495 operative date of this section for such company shall be January
496 1, 1989.

497 (h) In the case of any plan of life insurance which provides
498 for future premium determination, the amounts of which are to
499 be determined by the insurance company based on then estimates
500 of future experience, or in the case of any plan of life insurance
501 which is of such a nature that minimum values cannot be
502 determined by the methods described in subsection (a), (b), (c),
503 (d), (e), (f) or (g) of this section, then:

504 (1) The commissioner must be satisfied that the benefits
505 provided under the plan are substantially as favorable to
506 policyholders and insureds as the minimum benefits otherwise
507 required by subsection (a), (b), (c), (d), (e), (f) or (g) of this
508 section;

509 (2) The commissioner must be satisfied that the benefits and
510 the pattern of premiums of that plan are not such as to mislead
511 prospective policyholders or insureds; and

512 (3) The cash surrender values and paid-up nonforfeiture
513 benefits provided by such plan must not be less than the
514 minimum values and benefits required for the plan computed by
515 a method consistent with the principles of this Standard
516 Nonforfeiture Law for Life Insurance, as determined by rules
517 promulgated by the commissioner.

518 (i) Any cash surrender value and any paid-up nonforfeiture
519 benefit, available under the policy in the event of default in a
520 premium payment due at any time other than on the policy
521 anniversary, shall be calculated with allowance for the lapse of

522 time and the payment of fractional premiums beyond the last
523 preceding policy anniversary. All values referred to in
524 subsections (b), (c), (d), (e), (f) and (g) of this section may be
525 calculated upon the assumption that any death benefit is payable
526 at the end of the policy year of death. The net value of any
527 paid-up additions, other than paid-up term additions, shall be not
528 less than the amounts used to provide such additions.
529 Notwithstanding the provisions of subsection (2), additional
530 benefits payable:

531 (1) In the event of death or dismemberment by accident or
532 accidental means;

533 (2) In the event of total and permanent disability;

534 (3) As reversionary annuity or deferred reversionary annuity
535 benefits;

536 (4) As term insurance benefits provided by a rider or
537 supplemental policy provision to which, if issued as a separate
538 policy, this subsection would not apply;

539 (5) As term insurance on the life of a child or on the lives of
540 children provided in a policy on the life of a parent of the child,
541 if such term insurance expires before the child's age is
542 twenty-six, is uniform in amount after the child's age is one, and
543 has not become paid up by reason of the death of a parent of the
544 child; and

545 (6) As other policy benefits additional to life insurance and
546 endowment benefits, and premiums for all such additional
547 benefits, shall be disregarded in ascertaining cash surrender
548 values and nonforfeiture benefits required by this section, and no
549 such additional benefits shall be required to be included in any
550 paid-up nonforfeiture benefits.

551 (j)(1) This subsection, in addition to all other applicable
552 subsections of this law, shall apply to all policies issued on or
553 after January 1, 1985. Any cash surrender value available under
554 the policy in the event of default in a premium payment due on
555 any policy anniversary shall be in an amount which does not
556 differ by more than two tenths of one percent of either the
557 amount of insurance, if the insurance be uniform in amount, or
558 the average amount of insurance at the beginning of each of the
559 first ten policy years, from the sum of;

560 (A) The greater of zero and the basic cash value hereinafter
561 specified; and

562 (B) The present value of any existing paid-up additions less
563 the amount of any indebtedness to the company under the policy.

564 (2) The basic cash value shall be equal to the present value,
565 on such anniversary, of the future guaranteed benefits which
566 would have been provided by the policy, excluding any existing
567 paid-up additions and before deduction of any indebtedness to
568 the company, if there had been no default, less the then present
569 value of the nonforfeiture factors, as hereinafter defined,
570 corresponding to premiums which would have fallen due on and
571 after such anniversary: *Provided*, That the effects on the basic
572 cash value of supplemental life insurance or annuity benefits or
573 of family coverage, as described in subsection (b) or (d) of this
574 section, whichever is applicable, shall be the same as are the
575 effect specified in subsection (b) or (d) of this section, whichever
576 is applicable, on the cash surrender values defined in that
577 subsection.

578 (3) The nonforfeiture factor for each policy year shall be an
579 amount equal to a percentage of the adjusted premium for the
580 policy year, as defined in subsection (d) or (g), whichever is
581 applicable. Except as is required by the next succeeding sentence
582 of this paragraph, such percentage:

583 (A) Must be the same percentage for each policy year
584 between the second policy anniversary and the later of:

585 (i) The fifth policy anniversary; and

586 (ii) The first policy anniversary at which there is available
587 under the policy a cash surrender value in an amount, before
588 including any paid-up additions and before deducting any
589 indebtedness, of at least two tenths of one percent of either the
590 amount of insurance, if the insurance be uniform in amount, or
591 the average amount of insurance at the beginning of each of the
592 first ten policy years; and

593 (B) Must be such that no percentage after the later of the two
594 policy anniversaries specified in subparagraph (i), paragraph (A)
595 of this subdivision may apply to fewer than five consecutive
596 policy years: *Provided*, That no basic cash value may be less
597 than the value which would be obtained if the adjusted premiums
598 for the policy, as defined in subsection (g) of this section, were
599 substituted for the nonforfeiture factors in the calculation of the
600 basic cash value.

601 (4) All adjusted premiums and present values referred to in
602 this subsection shall for a particular policy be calculated on the
603 same mortality and interest bases as are used in demonstrating
604 the policy's compliance with the other sections of this law. The
605 cash surrender values referred to in this subsection shall include
606 any endowment benefits provided by the policy.

607 (5) Any cash surrender value available other than in the
608 event of default in a premium payment due on a policy
609 anniversary, and the amount of any paid-up nonforfeiture benefit
610 available under the policy in the event of default in a premium
611 payment shall be determined in manners consistent with the
612 manners specified for determining the analogous minimum
613 amounts in subsections (a), (b), (c), (g) and (i) of this section. The
614 amounts of any cash surrender values and of any paid-up

615 nonforfeiture benefits granted in connection with additional
616 benefits such as those listed as subdivisions (1) through (6),
617 subsection (i) of this section shall conform with the principles of
618 this subsection.

619 (k) This section does not apply to any of the following:

620 (1) Reinsurance;

621 (2) Group insurance;

622 (3) Pure endowment;

623 (4) Annuity or reversionary annuity contract;

624 (5) Term policy of uniform amount, which provides no
625 guaranteed nonforfeiture or endowment benefits, or renewal
626 thereof, of twenty years or less expiring before age seventy-one,
627 for which uniform premiums are payable during the entire term
628 of the policy;

629 (6) Term policy of decreasing amount, which provides no
630 guaranteed nonforfeiture or endowment benefits, on which each
631 adjusted premium, calculated as specified in subsections (d), (e),
632 (f) and (g) of this section, is less than the adjusted premium so
633 calculated on a policy of uniform amount, or renewal thereof,
634 which provides no guaranteed nonforfeiture or endowment
635 benefits, issued at the same age and for the same initial amount
636 of insurance and for a term of twenty years or less expiring
637 before age seventy-one, for which uniform premiums are
638 payable during the entire term of the policy;

639 (7) Policy, which provides no guaranteed nonforfeiture or
640 endowment benefits, for which no cash surrender value, if any,
641 or present value of any paid-up nonforfeiture benefit, at the
642 beginning of any policy year, calculated as specified in
643 subsections (b), (c), (d), (e) (f) and (g) of this section, exceeds

644 two and one-half percent of the amount of insurance at the
645 beginning of the same policy year; and

646 (8) Policy which shall be delivered outside this state through
647 an agent or other representative of the insurer issuing the policy.
648 For purposes of determining the applicability of this section, the
649 age at expiry for a joint term life insurance policy shall be the
650 age at expiry of the oldest life.

651 (l) After the effective date of the amendments made to this
652 section during the 2014 regular session of the Legislature, any
653 company may file with the commissioner a written notice of its
654 election to comply with the provisions of this section after a
655 specified date before January 1, 1948. After the filing of such
656 notice, then upon the specified date (which shall be the operative
657 date for the company), this section shall become operative with
658 respect to the policies thereafter issued by such company. If a
659 company makes no such election, the operative date of this
660 section for the company shall be January 1, 1948.

CHAPTER 93

**(Com. Sub. for H. B. 4204 - By Delegates Hunt, Manchin,
Manypenny, Skinner, Moore, Sponaugle and Ireland)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §33-17A-4 of the Code of West Virginia, 1931, as amended, relating to the nonrenewal or cancellation of property insurance coverage policies in force for at least four years; prohibiting nonrenewal or cancellation of such policies as a result of certain claims arising from natural causes;

prohibiting nonrenewal or cancellation of such policies as a result of certain claims arising from declared states of emergency.

Be it enacted by the Legislature of West Virginia:

That §33-17A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 17A. PROPERTY INSURANCE DECLINATION, TERMINATION AND DISCLOSURE.

§33-17A-4. Notification and reasons for a transfer, declination or termination.

1 (a) Upon declining to insure any real or personal property,
2 subject to this article, the insurer making a declination shall
3 provide the insurance applicant with a written explanation of the
4 specific reason or reasons for the declination at the time of the
5 declination. The provision of such insurance application form by
6 an insurer shall create no right to coverage on the behalf of the
7 insured to which the insured is not otherwise entitled.

8 (b) A notice of cancellation of property insurance coverage
9 by an insurer shall be in writing, shall be delivered to the named
10 insured or sent by first class mail to the named insured at the last
11 known address of the named insured, shall state the effective
12 date of the cancellation and shall be accompanied by a written
13 explanation of the specific reason or reasons for the cancellation.

14 (c) At least thirty days before the end of a policy period, as
15 described in subsection (c), section three of this article, an
16 insurer shall deliver or send by first class mail to the named
17 insured at the last known address of the named insured, notice of
18 its intention regarding the renewal of the property insurance
19 policy. Notice of an intention not to renew a property insurance
20 policy shall be accompanied by an explanation of the specific

21 reasons for the nonrenewal: *Provided*, That no insurer shall fail
22 to renew an outstanding property insurance policy which has
23 been in existence for four years or longer except for the reasons
24 as set forth in section five of this article; or for other valid
25 underwriting reasons which involve a substantial increase in the
26 risk: *Provided, however*, That notwithstanding any other
27 provision of this article, no property insurance coverage policy
28 in force for at least four years, may be denied renewal or
29 canceled solely as a result of:

30 (1) A single first party property damage claim within the
31 previous thirty-six months and that arose from wind, hail,
32 lightning, wildfire, snow or ice, unless the insurer has evidence
33 that the insured unreasonably failed to maintain the property and
34 that failure to maintain the property contributed to the loss, or

35 (2) Two first party property damage claims within the
36 previous twelve months, both of which arose from claims solely
37 due to an event for which a state of emergency is declared for the
38 county in which the insured property is located, unless the
39 insurer has evidence that the insured unreasonably failed to
40 maintain the property and that failure to maintain the property
41 contributed to the loss. "State of emergency" means the situation
42 existing after the occurrence of a disaster in which a state of
43 emergency has been declared by the Governor or by the
44 Legislature pursuant to the provisions of section six, article five,
45 chapter fifteen of this code or in which a major disaster
46 declaration or emergency declaration has been issued by the
47 President of the United States pursuant to the provisions of 42 U.
48 S. C. §5122.

CHAPTER 94

(S. B. 88 - By Senators Laird and Plymale)

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 24, 2014.]

AN ACT to amend and reenact §33-22-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §38-10E-1 of said code, all relating to farmers' mutual fire insurance companies; removing outdated language; clarifying obligations and liability of farmers' mutual fire insurance companies; imposing limited lien on proceeds under policies issued by farmers' mutual fire insurance companies; providing for notice of a total loss determination; and providing for perfection of statutory lien and release under certain conditions.

Be it enacted by the Legislature of West Virginia:

That §33-22-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §38-10E-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 33. INSURANCE.

ARTICLE 22. FARMERS' MUTUAL FIRE INSURANCE COMPANIES.

§33-22-2. Applicability of other provisions.

- 1 Each company to the same extent that provisions are
- 2 applicable to domestic mutual insurers shall be governed by and
- 3 be subject to the following provisions of this chapter, but only to
- 4 the extent these provisions are not inconsistent with this article:
- 5 Article one (definitions); article two (Insurance Commissioner);

6 article four (general provisions), except that section sixteen,
7 article four, may not be applicable; article seven (assets and
8 liabilities); article eight-a (use of clearing corporations and
9 federal reserve book-entry system); article ten (rehabilitation and
10 liquidation), except that under section thirty-two, article ten,
11 assessments may not be levied against any former member of a
12 farmers' mutual fire insurance company who is no longer a
13 member of the company at the time the order to show cause was
14 issued; article eleven (unfair trade practices); article twelve
15 (insurance producers and solicitors), except that the agent's
16 license fee shall be \$5; section six-a, article seventeen (notice of
17 noncoverage of flood damages and the availability of flood
18 insurance); section nine-b, article seventeen (claims for total
19 loss; debris removal proceeds); article twenty-six (West Virginia
20 Insurance Guaranty Association Act); article twenty-seven
21 (insurance holding company systems); article thirty (mine
22 subsidence insurance), except that under section six, article
23 thirty, a farmers' mutual insurance company shall have the
24 option of offering mine subsidence coverage to all of its
25 policyholders, but may not be required to do so; article
26 thirty-three (annual audited financial report); article thirty-four
27 (administrative supervision); article thirty-five (criminal
28 sanctions for failure to report impairment); article thirty-six
29 (business transacted with Producer-Controlled Property-Casualty
30 Insurer Act); article thirty-seven (managing general agents);
31 article thirty-nine (disclosure of material transactions); article
32 forty (risk-based capital for insurers); and article forty-one
33 (Insurance Fraud Prevention Act).

CHAPTER 38. LIENS.

ARTICLE 10E. LIEN ON INSURANCE PROCEEDS FOR DEBRIS REMOVAL.

§38-10E-1. Debris removal; notice of insurance proceeds; lien of municipality and county.

1 (a)(1) Notwithstanding any provision of this code to the
2 contrary, the receipt by an insurance company of a claim under
3 a fire insurance policy for a total loss to real property creates a
4 statutory lien on the insurance proceeds payable for such claim
5 in favor of the municipality in which the property is situate or,
6 if the property is located outside a municipality, the county in
7 which the property is situate, in an amount equal to the greater
8 of: (A) \$5,000; or (B) ten percent of the policy limits for loss to
9 the real property, including any coverage for debris removal:
10 *Provided*, That the amount of the lien may not exceed the policy
11 limits of coverage for the real property plus debris removal, if
12 any: *Provided, however*, That the lien created by this subsection
13 does not apply to proceeds payable under the policy for any
14 losses other than those to the real property insured, including
15 loss of personal property and payments for temporary housing
16 and related living expenses: *Provided, further*, That the lien
17 amount imposed against proceeds payable under policies issued
18 by farmers' mutual fire insurance companies pursuant to article
19 twenty-two, chapter thirty-three of this code shall in no event
20 exceed ten percent of the policy limits for loss to the real
21 property, including any coverage for debris removal.

22 (2) The terms "municipality" and "treasurer" have the same
23 meanings ascribed to them in section two, article one, chapter
24 eight of this code.

25 (b) Within ten days of a determination by the insurer that a
26 covered claim constitutes a total loss, the insurance company
27 shall send certified letters to the insured and, as applicable, to the
28 treasurer of the municipality in which the property is situate or,
29 if the property is situate outside a municipality, to the sheriff of
30 the county in which the property is situate, stating any amount
31 claimed; the limits and conditions of coverage; the location of
32 the property; the terms and limits of coverage designated by the
33 insurance policy for securing, cleanup and removal, if any; any

34 time limitations imposed on the insured for securing, cleanup
35 and removal; and the policyholder's name and mailing address.

36 (c)(1) The lien created pursuant to subsection (a) of this
37 section shall be discharged unless the municipality or county,
38 whichever is applicable, within thirty days of the receipt of the
39 letter sent in accordance with subsection (b) of this section,
40 perfects and preserves such lien by filing a notice thereof with
41 the clerk of the county commission of the county in which such
42 property is situate: *Provided*, That upon filing of a notice of lien
43 in accordance with this subdivision, the amount of the lien
44 created in subsection (a) of this section shall thereafter be for the
45 estimated cost of cleanup contained in such notice of lien,
46 subject to the limitation stated in subsection (a) of this section
47 with respect to policies issued by farmers' mutual insurance
48 companies: *Provided, however*, That the discharge of a lien
49 based on the municipality's or county's failure to file a notice
50 pursuant to this subdivision does not affect any other remedies
51 the municipality or county may have with respect to such
52 property or the liability of the property owner.

53 (2) A notice of lien filed in accordance with this subsection
54 shall include a statement of the estimated cost to the
55 municipality or county for the cleanup of the damaged property,
56 removal of any refuse, debris, remnants or remains of the
57 building and appurtenances, and securing the structure:
58 *Provided*, That such estimated cost may not exceed the amount
59 of the lien created pursuant to subsection (a) of this section.

60 (3) A notice of lien filed in accordance with this section shall
61 be notarized and shall be sufficient if in form and effect as
62 follows:

63 Notice of Lien for Debris Removal

64 To (name of insurance company):

65 You will please take notice that the undersigned, on behalf
66 of the (municipality or county) (of County, if a municipality),
67 West Virginia, has estimated that the cost of removing debris
68 and otherwise cleaning up (a certain building, other structure or
69 improvement) on real estate known as (an adequate and
70 ascertainable description of the real estate) would be (estimated
71 cleanup cost).

72 You are further notified that, in order to secure the payment
73 of the amount allowed by the provisions of subsection (a),
74 section one, article ten-e, chapter thirty-eight of the West
75 Virginia Code, the undersigned, on behalf of the (municipality
76 or county) and pursuant to the provisions of section one, article
77 ten-e, chapter thirty-eight of the West Virginia Code, claims a
78 lien in such amount upon the interest of (policyholder's name)
79 in a fire insurance policy (the policy number or other identifying
80 information) issued by (the insurance company's name and
81 address).

82 (Signature of treasurer or municipal officer exercising the
83 power and authority commonly exercised by a treasurer, or
84 sheriff).

85 (Title)

86 (d) The clerk of the county commission shall, upon the filing
87 of such notice, index the same in a book in his or her office
88 called "Debris Removal Liens" as a lien against the insurance
89 proceeds in favor of the municipality or county and shall send a
90 copy of the notice to the insurer.

CHAPTER 95

(H. B. 4359 - By Delegate Guthrie)
[By Request of the Insurance Commission]

[Passed February 24, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 7, 2014.]

AN ACT to amend and reenact §33-37-2 of the Code of West Virginia, 1931, as amended, relating to licensure of managing general agents of insurers; removing unnecessary language; providing for retroactive renewal of lapsed licenses; establishing license application and renewal fees; extending period of some initial licenses; and clarifying that the appointment of the Secretary of State to receive process applies to administrative actions and actions involving license applications.

Be it enacted by the Legislature of West Virginia:

That §33-37-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 37. MANAGING GENERAL AGENTS.

§33-37-2. Licensure.

1 (a) No domestic, foreign or alien insurer may permit a
2 person to act, and no person may act, in the capacity of a
3 managing general agent for an insurer in this state unless the
4 person is licensed in this state to act as a managing general
5 agent.

6 (b) No person may act in the capacity of a managing general
7 agent with respect to risks located in this state for an insurer

8 licensed in this state unless the person is a licensed insurance
9 producer in this state.

10 (c) The commissioner may license as a managing general
11 agent any individual or business entity that has complied with
12 the requirements of this article and any related rules. The
13 commissioner may refuse to issue a license if he or she believes
14 the applicant, any person named on the application, or any
15 member, principal, officer or director of the applicant is not
16 trustworthy or competent to act as a managing general agent, or
17 that any of the foregoing persons has given cause for revocation
18 or suspension of the license or has failed to comply with any
19 prerequisite for issuance of the license.

20 (d) Any person seeking a license pursuant to this section
21 shall apply for the license in a form prescribed by the
22 commissioner and pay a nonrefundable application fee of \$500.
23 Each license issued pursuant to this section expires on June 30
24 following issuance, except that a license initially issued in May
25 or June expires on June 30 of the following year. In order to
26 renew a license, a licensed managing general agent shall submit
27 to the commissioner at least one month prior to expiration a
28 renewal application in a form prescribed by the commissioner
29 and a renewal fee of \$200: *Provided*, That a managing general
30 agent that fails to timely renew a license may reinstate the
31 license, retroactive to its expiration date, upon submission of the
32 renewal application form prior to June 1 following the expiration
33 date and payment of a renewal fee of \$400. All fees shall be paid
34 into the State Treasury to the credit of the special revenue
35 account created in subsection (b), section thirteen, article three
36 of this chapter.

37 (e) The commissioner may require a bond in an amount
38 acceptable to him or her for the protection of the insurer.

39 (f) The commissioner may require a managing general agent
40 to maintain an errors and omissions policy that is acceptable to
41 the commissioner.

42 (g) The submission of an application for license pursuant to
43 this section constitutes an appointment by the applicant of the
44 Secretary of State as the agent for service of process on the
45 applicant in any action or proceeding, including administrative
46 actions instituted by the commissioner, arising in this state out
47 of or in connection with the application for or exercise of the
48 license. The appointment of the Secretary of State as agent for
49 service of process shall be irrevocable during the period within
50 which a cause of action against the applicant may arise out of
51 transactions with respect to subjects of insurance in this state.
52 Service of process on the Secretary of State shall conform to the
53 provisions of section twelve, article four of this chapter.

54 (h) A person seeking licensure shall provide evidence, in a
55 form acceptable to the commissioner, of its appointments or
56 contracts as a managing general agent. The commissioner may
57 refuse to renew the license of a person that has not been
58 appointed by, or otherwise authorized to act for, an insurer as a
59 managing general agent.

CHAPTER 96

**(Com. Sub. for S. B. 621 - By Senators Fitzsimmons,
Kessler (Mr. President), Edgell, Yost and Cookman)**

[Passed March 7, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 20, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-49-1, §33-49-2, §33-49-3, §33-49-4, §33-49-5, §33-49-6, §33-49-7, §33-49-8, §33-49-9 and §33-49-10, all relating to authorizing insurers to offer flood insurance in this state; providing legislative findings; defining terms; establishing minimum coverage requirements for these

policies; providing coverage limitations that an insurer may include in these policies; requiring that certain limitations be noted on the policy declarations or face page; providing the Insurance Commissioner with authority for rate-making and legislative and emergency rule-making authority; requiring the insurer to provide notice that flood insurance is available from the National Flood Insurance Program; allowing an insurer to export a contract or endorsement of a certain amount to a surplus lines insurer without meeting certain requirements; providing prior notice requirements for cancellation or nonrenewal of a policy; requiring the insurer to notify the commissioner before writing flood insurance and to file a plan of operation with the commissioner; providing that any conflict with other provisions of the West Virginia insurance code are superseded by this article; and requiring the Insurance Commissioner to provide certification that a condition qualifies for flood insurance or disaster assistance.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §33-49-1, §33-49-2, §33-49-3, §33-49-4, §33-49-5, §33-49-6, §33-49-7, §33-49-8, §33-49-9 and §33-49-10, all to read as follows:

ARTICLE 49. FLOOD INSURANCE.

§33-49-1. Legislative findings.

1 (a) The Legislature finds that:

2 (1) The National Flood Insurance Program is a federal
3 program that enables property owners in participating
4 communities to purchase flood insurance. A community
5 participates in the federal program by adopting and enforcing
6 flood plain management regulations that meet or exceed federal
7 flood plain management criteria designed to reduce future flood
8 risk to new construction in flood plains. The program was

9 created by Congress in 1968 because insurance covering the
10 peril of flood was often unavailable in the private insurance
11 market and was intended to reduce the amount of financial aid
12 paid by the federal government in the aftermath of flood-related
13 disasters. After the creation of the National Flood Insurance
14 Program (NFIP), flood insurance coverage continued to be
15 generally unavailable for purchase from private market insurance
16 companies.

17 (2) The Biggert-Waters Flood Insurance Reform Act of 2012
18 reauthorized and revised the National Flood Insurance Program.
19 The act increases flood insurance premiums purchased through
20 the program for second homes, business properties, severe
21 repetitive loss properties and substantially improved damaged
22 properties by requiring premium increases of twenty-five percent
23 per year until premiums meet the full actuarial cost. Most
24 residences lose their subsidized rates if the property is sold, the
25 policy lapses, repeated and severe flood losses occur or a new
26 policy is purchased. Policyholders whose communities adopt a
27 new, updated Flood Insurance Rate Map (FIRM) that results in
28 higher rates will experience a five-year phase in of rate increases
29 to achieve required rate levels.

30 (3) The Biggert-Waters Flood Insurance Reform Act of 2012
31 also encourages the use and acceptance of private market flood
32 insurance. The Legislature finds that there is no adequate private
33 flood insurance market available in West Virginia. Such historic
34 and current inadequacy suggests that the private market in this
35 state is unlikely to expand unless the Legislature provides
36 multiple options for the regulation of flood insurance. The
37 Legislature also finds that the consumers of this state would
38 benefit from the availability of competitively priced private
39 market flood insurance due to the continued availability of NFIP
40 flood insurance, the likely availability of alternative private
41 market flood insurance coverage options and the oversight of the
42 Insurance Commissioner of West Virginia.

43 (4) The National Flood Insurance Program, as amended by
44 the Biggert-Waters Flood Insurance Reform Act of 2012, will
45 prevent many property owners from obtaining affordable flood
46 insurance coverage in this state. The absence of affordable flood
47 insurance threatens the public health, safety and welfare and the
48 economic health of West Virginia. Therefore, the state has a
49 compelling public purpose and interest in providing alternatives
50 to coverage from the National Flood Insurance Program by
51 promoting the availability of flood insurance from private
52 market insurers at potentially lower premium rates so as to
53 facilitate the remediation, reconstruction and replacement of
54 damaged or destroyed property in order to reduce or avoid harm
55 to the public health, safety and welfare, to the economy of this
56 state and to the revenues of state and local governments which
57 are needed to provide for the public welfare.

§33-49-2. Definitions.

1 (a) As used in this article, the term “flood” means a general
2 and temporary condition of partial or complete inundation of two
3 acres or more of normally dry land area or of two or more
4 properties, at least one of which is the policyholder’s property,
5 from:

6 (1) Overflow of waters;

7 (2) Unusual and rapid accumulation or runoff of surface
8 waters from any source;

9 (3) Mudflow; or

10 (4) Collapse or subsidence of land along the shore of a lake
11 or similar body of water as a result of erosion or undermining
12 caused by waves or currents of water exceeding anticipated
13 cyclical levels which result in a flood.

14 (b) As used in this article, the term “insurer” means an
15 insurer that is subject to the provisions of this chapter and is

16 offering flood insurance pursuant to this article: *Provided*, That
17 a surplus lines insurer offering flood insurance pursuant to this
18 article is exempt from the requirements of this chapter but
19 subject to laws and rules applicable to surplus lines insurers.

§33-49-3. Issuance of flood insurance.

1 (a) Subject to the requirements of this article, an insurer may
2 issue an insurance policy, contract or endorsement providing
3 coverage for the peril of flood on any structure or on the contents
4 of personal property on a form that has been filed with and
5 approved by the commissioner pursuant to section eight, article
6 six of this chapter and that may be substantially similar to the
7 form used by the National Flood Insurance Program (NFIP).

8 (b) A surplus lines agent may export a contract or
9 endorsement providing flood coverage of \$1 million or more to
10 an eligible surplus lines insurer without making a diligent effort
11 to seek such coverage from three or more authorized insurers as
12 provided in article twelve-c of this chapter. This subsection
13 expires on July 1, 2019.

§33-49-4. Content of flood insurance.

1 (a) At a minimum, coverage for the peril of flood must cover
2 a flood as defined in this article. Coverage for the peril of flood
3 may also include water intrusion, as defined by the policy, which
4 originates from outside the structure and is not otherwise
5 covered under the definition of flood.

6 (b) An insurer may offer a flood coverage policy, contract or
7 endorsement:

8 (1) That has a flood deductible based on a stated dollar
9 amount or a percentage of the coverage amount. At a minimum,
10 an insurer must offer deductible amounts applicable to flood
11 losses that equal the standard deductibles offered under the
12 National Flood Insurance Program;

13 (2) That provides that any flood loss will be adjusted on the
14 basis of:

15 (A) The actual cash value of the property; or

16 (B) Replacement costs up to the policy limits in the same
17 manner as provided under section nine, article seventeen of this
18 chapter;

19 (3) That restricts flood coverage to the principal building, as
20 defined in the applicable policy;

21 (4) In an agreed-upon amount, including coverage limited to
22 the amount of all outstanding mortgages applicable to the
23 covered property. However, if a policy, contract or endorsement
24 does not limit flood coverage to the replacement cost of the
25 covered property, the contract or endorsement may not include
26 a provision penalizing the policyholder for not insuring the
27 covered property up to replacement cost; or

28 (5) That, as to the peril of flood, does not cover:

29 (A) Additional living expenses;

30 (B) Personal property or contents; or

31 (C) Law and ordinance coverage. However, an insurer must
32 offer law and ordinance coverage that is comparable to the law
33 and ordinance coverage offered in the standard National Flood
34 Insurance Program policy. A policy, endorsement, or contract
35 that includes the law and ordinance coverage that must be
36 offered under this paragraph must include the following
37 disclosure in uppercase bold lettering of at least 12-point type:
38 **“LAW AND ORDINANCE COVERAGE UNDER THIS**
39 **POLICY MIGHT HAVE LIMITATIONS ON WHAT IS**
40 **COVERED IN THE EVENT OF A LOSS. YOU SHOULD**
41 **CONSULT WITH YOUR AGENT IF YOU HAVE**

42 QUESTIONS ABOUT THE COVERAGE OFFERED UNDER
43 THIS POLICY.”

§33-49-5. Notice of availability and limits of flood insurance.

1 (a) A policy, endorsement or contract providing coverage for
2 the peril of flood must provide notice that flood insurance
3 coverage is available from the National Flood Insurance
4 Program.

5 (b) Any limitations on flood coverage or policy limits
6 as to the peril of flood, including, but not limited to, flood
7 deductibles or flood coverage limited to the amount of all
8 outstanding mortgages, must be prominently disclosed on the
9 declarations page or face page of the policy in uppercase bold
10 lettering of at least 12-point type and be sufficiently clear so as
11 to be readily understandable by both the agent and the property
12 owner.

13 (c) A policy that limits flood coverage to an amount less
14 than the full replacement cost of the property must include the
15 statement: “THIS POLICY LIMITS FLOOD COVERAGE TO
16 LESS THAN THE FULL COST OF REPLACEMENT FOR
17 THE PROPERTY, WHICH MAY RESULT IN HIGH OUT-OF-
18 POCKET EXPENSES TO YOU AND MAY PUT YOUR
19 EQUITY IN THIS PROPERTY AT RISK.”

20 (d) A policy that insures a dwelling on the basis of actual
21 cash value must include the statement: “THIS POLICY PAYS
22 YOU THE DEPRECIATED VALUE OF YOUR PROPERTY
23 THAT IS DAMAGED BY FLOOD, WHICH MAY RESULT IN
24 HIGH OUT-OF-POCKET EXPENSES TO YOU IF YOUR
25 PROPERTY NEEDS TO BE REPAIRED OR REPLACED.”

§33-49-6. Notice of cancellation or nonrenewal.

1 A policy, endorsement or contract providing coverage for the
2 peril of flood must require the insurer to give 45-days’ prior

3 written notice of cancellation or nonrenewal to the insured and
4 any regulated lending institution or federal agency that is a
5 mortgagee. An insurer or insured may cancel during the term of
6 the policy or upon renewal if the cancellation is for a valid
7 reason under the National Flood Insurance Program.

§33-49-7. Additional requirements.

1 (a) In addition to any other applicable requirements, an
2 insurer providing flood coverage in this state must:

3 (1) Notify the office at least thirty days before writing flood
4 insurance in this state; and

5 (2) File a plan of operation and financial projections or
6 revisions to such plan, as applicable, with the commissioner.

§33-49-8. Conflicts between insurance law and flood insurance.

1 With respect to the regulation of flood insurance coverage
2 written in this state by private insurers, this article supersedes
3 any other provision in this chapter in the event of a conflict.

§33-49-9. Federal law requiring certification.

1 If federal law or rule requires a certification by a state
2 insurance regulatory official as a condition of qualifying for
3 private flood insurance or disaster assistance, the commissioner
4 shall provide the certification, and the certification is not subject
5 to review under section fourteen, article two of this chapter.

§33-49-10. Rule-making authority.

1 (a) The commissioner may propose rules for legislative
2 approval in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code to implement the provisions
4 of this article, including but not limited to:

5 (1) Establishing and refining definitions;

6 (2) Requirements for ratemaking, forms and other
7 requirements under this chapter;

8 (3) Clarifying minimum coverage requirements for flood
9 insurance policies;

10 (4) Determining whether a policy meets the definition of
11 "private flood insurance" or other certain standards and
12 requirements; and

13 (5) Solvency and market conduct operations.

14 (b) The commissioner may promulgate emergency rules
15 pursuant to the provisions of section fifteen, article three, chapter
16 twenty-nine-a of this code for any purposes set forth for
17 legislative rules in subsection (a) of this section.

CHAPTER 97

**(Com. Sub. Ffor S. B. 405 - By Senators Cookman,
Miller and Plymale)**

[Passed March 5, 2014; in effect from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to amend and reenact §52-1-5a and §52-1-9 of the Code of West Virginia, 1931, as amended, all relating to availability of jury qualification forms; limiting availability after conclusion of trial; and removing a conflict with another section of the code.

Be it enacted by the Legislature of West Virginia:

That §52-1-5a and §52-1-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. PETIT JURIES.**§52-1-5a. Jury qualification form; contents; procedure for use; penalties.**

1 (a) Not less than twenty days before the date for which
2 persons are to report for jury duty, the clerk may, if directed by
3 the court, serve by first-class mail, upon each person listed on
4 the master list, a juror qualification form accompanied by
5 instructions necessary for its completion: *Provided*, That the
6 clerk may, if directed by the court, mail the juror qualification
7 form to only those prospective jurors drawn for jury service
8 under the provisions of section seven of this article. Each
9 prospective juror shall be directed to complete the form and
10 return it by mail to the clerk within ten days after its receipt. The
11 juror qualification form is subject to approval by the circuit court
12 as to matters of form and shall elicit the following information
13 concerning the prospective juror:

14 (1) The juror's name, sex, race, age and marital status;

15 (2) The juror's level of educational attainment, occupation
16 and place of employment;

17 (3) If married, the name of the juror's spouse and the
18 occupation and place of employment of the spouse;

19 (4) The juror's residence address and the juror's mailing
20 address if different from the residence address;

21 (5) The number of children which the juror has and their
22 ages;

23 (6) Whether the juror is a citizen of the United States and a
24 resident of the county;

25 (7) Whether the juror is able to read, speak and understand
26 the English language;

27 (8) Whether the juror has any physical or mental disability
28 substantially impairing the capacity to render satisfactory jury
29 service: *Provided*, That a juror with a physical disability, who
30 can with reasonable accommodation render competent service,
31 is eligible for service;

32 (9) Whether the juror has, within the preceding two years,
33 been summoned to serve as a petit juror, grand juror or
34 magistrate court juror, and has actually attended sessions of the
35 magistrate or circuit court and been reimbursed for his or her
36 expenses as a juror;

37 (10) Whether the juror has lost the right to vote because of
38 a criminal conviction; and

39 (11) Whether the juror has been convicted of perjury, false
40 swearing or any crime punishable by imprisonment in excess of
41 one year under the applicable law of this state, another state or
42 the United States.

43 The juror qualification form may also request information
44 concerning the prospective juror's religious preferences and
45 organizational affiliations, except that the form and the
46 accompanying instructions shall clearly inform the juror that this
47 information need not be provided if the juror declines to answer
48 such inquiries.

49 (b) The juror qualification form shall contain the prospective
50 juror's declaration that the responses are true to the best of the
51 prospective juror's knowledge and an acknowledgment that a
52 willful misrepresentation of a material fact may be punished by
53 a fine of not more than \$500 or imprisonment for not more than
54 thirty days, or both fine and imprisonment. Notarization of the
55 juror qualification form shall not be required. If the prospective
56 juror is unable to fill out the form, another person may assist the
57 prospective juror in the preparation of the form and indicate that
58 such person has done so and the reason therefor. If an omission,

59 ambiguity or error appear in a returned form, the clerk shall
60 again send the form with instructions to the prospective juror to
61 make the necessary addition, clarification or correction and to
62 return the form to the clerk within ten days after its second
63 receipt.

64 (c) Any prospective juror who fails to return a completed
65 juror qualification form as instructed shall be directed by the
66 clerk to appear forthwith before the clerk to fill out the juror
67 qualification form. At the time of the prospective juror's
68 appearance for jury service, or at the time of any interview
69 before the court or clerk, any prospective juror may be required
70 to fill out another juror qualification form in the presence of the
71 court or clerk. At that time the prospective juror may be
72 questioned with regard to the responses to questions contained
73 on the form and the grounds for the prospective juror's excuse
74 or disqualification. Any information thus acquired by the court
75 or clerk shall be noted on the juror qualification form.

76 (d) Any person who willfully misrepresents a material fact
77 on a juror qualification form or during any interview described
78 in subsection (c) of this section, for the purpose of avoiding or
79 securing service as a juror, is guilty of a misdemeanor and, upon
80 conviction thereof, shall be fined not more than \$500 or
81 imprisoned not more than thirty days, or both fined and
82 imprisoned.

83 (e) Upon the clerk's receipt of the juror qualification
84 questionnaires of persons selected as prospective petit jurors, he
85 or she shall make the questionnaires of the persons so selected
86 available, upon request, to counsel of record in the trial or trials
87 for which the persons have been selected as prospective jurors:
88 *Provided*, That upon the conclusion of the trial the juror
89 qualification forms for persons serving on a particular trial jury
90 may only be released with the written permission of the judge
91 who presided over the trial or his or her successor: *Provided*,

92 *however*, That if the judge denies the request, the reasons for the
93 denial must be in writing and be share with all parties in the case
94 and the person making the request within thirty days after filing
95 the motion.

§52-1-9. Assignment of jurors to jury panels; drawing of additional jurors upon shortage of qualified jurors.

1 (a) The jurors drawn for jury service shall be assigned at
2 random by the clerk to each jury panel in a manner prescribed by
3 the court.

4 (b) If there is an unanticipated shortage of available petit
5 jurors drawn from the jury wheel or jury box the court may
6 require the sheriff to summon a sufficient number of petit jurors
7 selected at random by the clerk from the jury wheel or jury box
8 in a manner prescribed by the circuit court.

CHAPTER 98

**(S. B. 470 - By Senators Cookman, Miller, Snyder,
Fitzsimmons, Williams, D. Hall and Stollings)**

[Passed March 4, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 14, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-16, relating to grand jury juror questionnaire forms; protecting information contained in the forms; and requiring written permission of the circuit court to release the questionnaires.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §52-2-16, to read as follows:

ARTICLE 2. GRAND JURIES.**§52-2-16. Juror questionnaires; judicial approval required for release of forms.**

- 1 Completed juror questionnaire forms for persons called for
- 2 or serving as grand jurors are confidential and may only be
- 3 released from the custody of the clerk with the written
- 4 permission of the circuit court.

CHAPTER 99**(S. B. 586 - By Senator Palumbo)**

[Passed March 8, 2014; in effect ninety days from passage.]

[Approved by the Governor on March 28, 2014.]

AN ACT to repeal §55-7B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §56-6-11 of said code, relating to removing unconstitutional language regarding the number of jurors and types of verdicts in certain civil litigation.

Be it enacted by the Legislature of West Virginia:

That §55-7B-6d of the Code of West Virginia, 1931, as amended, be repealed; and that §56-6-11 of said code be amended and reenacted to read as follows:

ARTICLE 6. TRIAL.**§56-6-11. Execution of order of inquiry and trial of case by court; six-member jury in civil trials; twelve-member jury in eminent domain and criminal trials.**

- 1 (a) The court, in an action at law, if neither party requires a
- 2 jury, or if the defendant has failed to appear and the plaintiff

3 does not require a jury, shall ascertain the amount the plaintiff is
4 entitled to recover in the action, if any, and render judgment
5 accordingly. In any case, in which a trial by jury would be
6 otherwise proper, the parties or their counsel, by consent entered
7 of record, may waive the right to have a jury, and thereupon the
8 whole matter of law and fact shall be heard and determined, and
9 judgment given by the court. Absent such waiver, in any civil
10 trial a jury shall consist of six members and in any criminal trial
11 a jury shall consist of twelve members.

12 (b) The provisions of this section do not apply to any
13 proceeding had pursuant to article two, chapter fifty-four of this
14 code, the provisions of which apply to all cases involving the
15 taking of property for a public use.

CHAPTER 100

(Com. Sub. for S. B. 252 - By Senators Palumbo and Nohe)

[Passed March 8, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 26, 2014.]

AN ACT to amend and reenact §18A-5-1a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18A-5-1d, all relating to allowing a school expulsion period to be reduced for certain student participants in Juvenile Drug Court; specifying individuals who may refer an expelled student to Juvenile Drug Court; designating responsibilities of Juvenile Drug Court, judge and treatment team of Juvenile Drug Court, county superintendent and student assistance team; granting Juvenile Drug Court jurisdiction over certain students; providing that successful completion or satisfactory progress toward successful completion of Juvenile

Drug Court warrants consideration for reduced expulsion period; recommendations and determinations regarding expulsion period reduction; and providing for reinstatement of students in school, subject to approval of the superintendent.

Be it enacted by the Legislature of West Virginia:

That §18A-5-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18A-5-1d, all to read as follows:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

1 (a) A principal shall suspend a student from school or from
 2 transportation to or from the school on any school bus if the
 3 student, in the determination of the principal after an informal
 4 hearing pursuant to subsection (d) of this section, has: (i)
 5 Violated the provisions of subsection (b), section fifteen, article
 6 two, chapter sixty-one of this code; (ii) violated the provisions
 7 of subsection (b), section eleven-a, article seven of said chapter;
 8 or (iii) sold a narcotic drug, as defined in section one hundred
 9 one, article one, chapter sixty-a of this code, on the premises of
 10 an educational facility, at a school-sponsored function or on a
 11 school bus. If a student has been suspended pursuant to this
 12 subsection, the principal shall, within twenty-four hours, request
 13 that the county superintendent recommend to the county board
 14 that the student be expelled. Upon such a request by a principal,
 15 the county superintendent shall recommend to the county board

16 that the student be expelled. Upon such recommendation, the
17 county board shall conduct a hearing in accordance with
18 subsections (e), (f) and (g) of this section to determine if the
19 student committed the alleged violation. If the county board
20 finds that the student did commit the alleged violation, the
21 county board shall expel the student.

22 (b) A principal shall suspend a student from school, or from
23 transportation to or from the school on any school bus, if the
24 student, in the determination of the principal after an informal
25 hearing pursuant to subsection (d) of this section, has: (i)
26 Committed an act or engaged in conduct that would constitute a
27 felony under the laws of this state if committed by an adult; or
28 (ii) unlawfully possessed on the premises of an educational
29 facility or at a school-sponsored function a controlled substance
30 governed by the uniform controlled substances act as described
31 in chapter sixty-a of this code. If a student has been suspended
32 pursuant to this subsection, the principal may request that the
33 superintendent recommend to the county board that the student
34 be expelled. Upon such recommendation by the county
35 superintendent, the county board may hold a hearing in
36 accordance with the provisions of subsections (e), (f) and (g) of
37 this section to determine if the student committed the alleged
38 violation. If the county board finds that the student did commit
39 the alleged violation, the county board may expel the student.

40 (c) A principal may suspend a student from school, or
41 transportation to or from the school on any school bus, if the
42 student, in the determination of the principal after an informal
43 hearing pursuant to subsection (d) of this section: (i) Threatened
44 to injure, or in any manner injured, a student, teacher,
45 administrator or other school personnel; (ii) willfully disobeyed
46 a teacher; (iii) possessed alcohol in an educational facility, on
47 school grounds, a school bus or at any school-sponsored
48 function; (iv) used profane language directed at a school
49 employee or student; (v) intentionally defaced any school

50 property; (vi) participated in any physical altercation with
51 another person while under the authority of school personnel; or
52 (vii) habitually violated school rules or policies. If a student has
53 been suspended pursuant to this subsection, the principal may
54 request that the superintendent recommend to the county board
55 that the student be expelled. Upon such recommendation by the
56 county superintendent, the county board may hold a hearing in
57 accordance with the provisions of subsections (e), (f) and (g) of
58 this section to determine if the student committed the alleged
59 violation. If the county board finds that the student did commit
60 the alleged violation, the county board may expel the student.

61 (d) The actions of any student which may be grounds for his
62 or her suspension or expulsion under the provisions of this
63 section shall be reported immediately to the principal of the
64 school in which the student is enrolled. If the principal
65 determines that the alleged actions of the student would be
66 grounds for suspension, he or she shall conduct an informal
67 hearing for the student immediately after the alleged actions
68 have occurred. The hearing shall be held before the student is
69 suspended unless the principal believes that the continued
70 presence of the student in the school poses a continuing danger
71 to persons or property or an ongoing threat of disrupting the
72 academic process, in which case the student shall be suspended
73 immediately and a hearing held as soon as practicable after the
74 suspension.

75 The student and his or her parent(s), guardian(s) or
76 custodian(s), as the case may be, shall be given telephonic
77 notice, if possible, of this informal hearing, which notice shall
78 briefly state the grounds for suspension.

79 At the commencement of the informal hearing, the principal
80 shall inquire of the student as to whether he or she admits or
81 denies the charges. If the student does not admit the charges, he
82 or she shall be given an explanation of the evidence possessed by

83 the principal and an opportunity to present his or her version of
84 the occurrence. At the conclusion of the hearing or upon the
85 failure of the noticed student to appear, the principal may
86 suspend the student for a maximum of ten school days, including
87 the time prior to the hearing, if any, for which the student has
88 been excluded from school.

89 The principal shall report any suspension the same day it has
90 been decided upon, in writing, to the parent(s), guardian(s) or
91 custodian(s) of the student by regular United States mail. The
92 suspension also shall be reported to the county superintendent
93 and to the faculty senate of the school at the next meeting after
94 the suspension.

95 (e) Prior to a hearing before the county board, the county
96 board shall cause a written notice which states the charges and
97 the recommended disposition to be served upon the student and
98 his or her parent(s), guardian(s) or custodian(s), as the case may
99 be. The notice shall state clearly whether the board will attempt
100 at hearing to establish the student as a dangerous student, as
101 defined by section one, article one of this chapter. The notice
102 also shall include any evidence upon which the board will rely
103 in asserting its claim that the student is a dangerous student. The
104 notice shall set forth a date and time at which the hearing shall
105 be held, which date shall be within the ten-day period of
106 suspension imposed by the principal.

107 (f) The county board shall hold the scheduled hearing to
108 determine if the student should be reinstated or should or, under
109 the provisions of this section, must be expelled from school. If
110 the county board determines that the student should or must be
111 expelled from school, it also may determine whether the student
112 is a dangerous student pursuant to subsection (g) of this section.
113 At this, or any hearing before a county board conducted pursuant
114 to this section, the student may be represented by counsel, may
115 call his or her own witnesses to verify his or her version of the

116 incident and may confront and cross examine witnesses
117 supporting the charge against him or her. The hearing shall be
118 recorded by mechanical means unless recorded by a certified
119 court reporter. The hearing may be postponed for good cause
120 shown by the student but he or she shall remain under
121 suspension until after the hearing. The state board may adopt
122 other supplementary rules of procedure to be followed in these
123 hearings. At the conclusion of the hearing the county board shall
124 either: (1) Order the student reinstated immediately at the end of
125 his or her initial suspension; (2) suspend the student for a further
126 designated number of days; or (3) expel the student from the
127 public schools of the county.

128 (g) A county board that did not intend prior to a hearing to
129 assert a dangerous student claim, that did not notify the student
130 prior to the hearing that a dangerous student determination
131 would be considered and that determines through the course of
132 the hearing that the student may be a dangerous student shall
133 schedule a second hearing within ten days to decide the issue.
134 The hearing may be postponed for good cause shown by the
135 student, but he or she remains under suspension until after the
136 hearing.

137 A county board that expels a student, and finds that the
138 student is a dangerous student, may refuse to provide alternative
139 education. However, after a hearing conducted pursuant to this
140 section for determining whether a student is a dangerous student,
141 when the student is found to be a dangerous student, is expelled
142 and is denied alternative education, a hearing shall be conducted
143 within three months after the refusal by the board to provide
144 alternative education to reexamine whether or not the student
145 remains a dangerous student and whether the student shall be
146 provided alternative education. Thereafter, a hearing for the
147 purpose of reexamining whether or not the student remains a
148 dangerous student and whether the student shall be provided
149 alternative education shall be conducted every three months for

150 so long as the student remains a dangerous student and is denied
151 alternative education. During the initial hearing, or in any
152 subsequent hearing, the board may consider the history of the
153 student's conduct as well as any improvements made subsequent
154 to the expulsion. If it is determined during any of the hearings
155 that the student is no longer a dangerous student or should be
156 provided alternative education, the student shall be provided
157 alternative education during the remainder of the expulsion
158 period.

159 (h) The superintendent may apply to a circuit judge or
160 magistrate for authority to subpoena witnesses and documents,
161 upon his or her own initiative, in a proceeding related to a
162 recommended student expulsion or dangerous student
163 determination, before a county board conducted pursuant to the
164 provisions of this section. Upon the written request of any other
165 party, the superintendent shall apply to a circuit judge or
166 magistrate for the authority to subpoena witnesses, documents or
167 both on behalf of the other party in a proceeding related to a
168 recommended student expulsion or dangerous student
169 determination before a county board. If the authority to subpoena
170 is granted, the superintendent shall subpoena the witnesses,
171 documents or both requested by the other party. Furthermore, if
172 the authority to subpoena is granted, it shall be exercised in
173 accordance with the provisions of section one, article five,
174 chapter twenty-nine-a of this code.

175 Any hearing conducted pursuant to this subsection may be
176 postponed: (1) For good cause shown by the student; (2) when
177 proceedings to compel a subpoenaed witness to appear must be
178 instituted; or (3) when a delay in service of a subpoena hinders
179 either party's ability to provide sufficient notice to appear to a
180 witness. A student remains under suspension until after the
181 hearing in any case where a postponement occurs.

182 The county boards are directed to report the number of
183 students determined to be dangerous students to the state board.

184 The state board will compile the county boards' statistics and
185 shall report its findings to the Legislative Oversight Commission
186 on Education Accountability.

187 (i) Students may be expelled pursuant to this section for a
188 period not to exceed one school year, except that if a student is
189 determined to have violated the provisions of subsection (a) of
190 this section the student shall be expelled for a period of not less
191 than twelve consecutive months, subject to the following:

192 (1) The county superintendent may lessen the mandatory
193 period of twelve consecutive months for the expulsion of the
194 student if the circumstances of the student's case demonstrably
195 warrant;

196 (2) Upon the reduction of the period of expulsion, the county
197 superintendent shall prepare a written statement setting forth the
198 circumstances of the student's case which warrant the reduction
199 of the period of expulsion. The county superintendent shall
200 submit the statement to the county board, the principal, the
201 faculty senate and the local school improvement council for the
202 school from which the student was expelled. The county
203 superintendent may use the following factors as guidelines in
204 determining whether or not to reduce a mandatory twelve-month
205 expulsion:

206 (A) The extent of the student's malicious intent;

207 (B) The outcome of the student's misconduct;

208 (C) The student's past behavior history;

209 (D) The likelihood of the student's repeated misconduct; and

210 (E) If applicable, successful completion or making
211 satisfactory progress toward successful completion of Juvenile
212 Drug Court pursuant to section one-d of this section.

213 (j) In all hearings under this section, facts shall be found by
214 a preponderance of the evidence.

215 (k) For purposes of this section, nothing herein may be
216 construed to be in conflict with the federal provisions of the
217 Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et*
218 *seq.*

219 (l) Each suspension or expulsion imposed upon a student
220 under the authority of this section shall be recorded in the
221 uniform integrated regional computer information system
222 (commonly known as the West Virginia Education Information
223 System) described in subsection (f), section twenty-six, article
224 two, chapter eighteen of this code.

225 (1) The principal of the school at which the student is
226 enrolled shall create an electronic record within twenty-four
227 hours of the imposition of the suspension or expulsion.

228 (2) Each record of a suspension or expulsion shall include
229 the student's name and identification number, the reason for the
230 suspension or expulsion and the beginning and ending dates of
231 the suspension or expulsion.

232 (3) The state board shall collect and disseminate data so that
233 any principal of a public school in West Virginia can review the
234 complete history of disciplinary actions taken by West Virginia
235 public schools against any student enrolled or seeking to enroll
236 at that principal's school. The purposes of this provision are to
237 allow every principal to fulfill his or her duty under subsection
238 (b), section fifteen-f, article five, chapter eighteen of this code to
239 determine whether a student requesting to enroll at a public
240 school in West Virginia is currently serving a suspension or
241 expulsion from another public school in West Virginia and to
242 allow principals to obtain general information about students'
243 disciplinary histories.

CHAPTER 101

**(H. B. 4437 - By Delegates Perry, Morgan, Eldridge,
Campbell and M. Poling)
[By Request of the Juvenile Services]**

[Passed March 4, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 28, 2014.]

AN ACT to amend of the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §49-5E-6a and §49-5E-6b, all relating to the Division of Juvenile Services; authorizing the Director of Juvenile Services to establish juvenile trustee accounts and funds for earnings and personal property of juveniles; creating a juvenile benefit fund; creating special revenue accounts in the office of the Treasurer for juvenile benefit funds; and including residents of the Division of Juvenile Services as a division designated to receive and disburse such funds.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §49-5E-6a and §49-5E-6b, all to read as follows:

ARTICLE 5E. DIVISION OF JUVENILE SERVICES.

§49-5E-6a. Juvenile trustee accounts and funds, earnings and personal property of juveniles.

- 1 (a) The Director of Juvenile Services may establish at each
- 2 facility under his or her jurisdiction a “Juvenile Trustee Fund”.
- 3 The administrator or designee of each facility may receive and
- 4 take charge of the money and personal property, as defined by

5 policy, of all juveniles in his or her facility and all money or
6 personal property, as defined by policy, sent to the juveniles or
7 earned by the juveniles as compensation for work performed
8 while they are domiciled there. The administrator or designee
9 shall credit the money and earnings to the juveniles entitled to it
10 and shall keep an accurate account of all the money and personal
11 property so received, which account is subject to examination by
12 the Director of Juvenile Services and the Assistant Director of
13 Budget and Finance of the Division of Juvenile Services. The
14 administrator or designee shall deposit the moneys in one or
15 more responsible banks in accounts to be designated a "Juvenile
16 Trustee Fund".

17 (b) The administrator or designee shall keep in an account
18 for all juveniles at least ten percent of all money earned during
19 the juveniles commitment and pay the money to the juvenile at
20 the time of the juvenile's release. The administrator or designee
21 may authorize the juvenile to withdraw money from his or her
22 mandatory savings for the purpose of preparing the juvenile for
23 reentry into society.

24 (c) The administrator or designee shall deliver to the juvenile
25 at the time he or she leaves the facility, or as soon as practicable
26 after departure, all personal property, moneys and earnings then
27 credited to the juvenile, or in case of the death of the juvenile
28 before authorized release from the facility, the administrator or
29 designee shall deliver the property to the juvenile's personal
30 representative. If a conservator is appointed for the juvenile
31 while he or she is domiciled at the facility, the administrator or
32 designee shall deliver to the conservator, upon proper demand,
33 all moneys and personal property belonging to the juvenile that
34 are in the custody of the administrator.

35 (d) If any money is credited to a former juvenile resident
36 after remittance of the sum of money as provided in subsection
37 (c), the administrator or designee shall mail the funds to the

38 former juvenile resident's last known address. If the funds are
39 returned to the facility, the administrator or designee will
40 forward those funds to the Division of Juvenile Service's
41 Assistant Director of Budget and Finance to submit the funds to
42 the State Treasurer's Office-Unclaimed Property Division.

43 (e) The facility shall compile a monthly report that
44 specifically documents juvenile trustee fund receipts and
45 expenditures and submit the reconciled monthly bank statements
46 to the Division of Juvenile Service's Assistant Director of
47 Budget and Finance.

§49-5E-6b. Juvenile benefit funds.

1 (a) There is hereby established a special revenue account in
2 the State Treasury for each juvenile benefit fund established by
3 the director. Moneys received by an institution for deposit in an
4 juvenile benefit fund shall be deposited with the State Treasurer
5 to be credited to the special revenue account created for the
6 institution's juvenile benefit fund. Moneys in a special revenue
7 account established for a juvenile benefit fund may be expended
8 by the institution for the purposes set forth in this section.

9 (b) Moneys in an account established for a juvenile benefit
10 fund may be expended by the facility for the purposes set forth
11 in this section. Moneys to be deposited into a juvenile benefit
12 fund consist of:

13 (1) All profit from the exchange or commissary operation
14 and, if the commissary is operated by a vendor, whether a public
15 or private entity, the profit is the negotiated commission paid to
16 the Division of Juvenile Services by the vendor;

17 (2) All net proceeds from vending machines used for
18 juvenile resident visitation;

19 (3) All proceeds from contracted juvenile resident telephone
20 commissions;

21 (4) Any funds that may be assigned by juveniles or donated
22 to the facility by the general public or a service organization on
23 behalf of all the juveniles; and

24 (5) Any funds confiscated considered contraband.

25 (c) The juvenile benefit fund may only be used for the
26 following purposes at juvenile facilities:

27 (1) Open-house visitation functions or other nonroutine
28 campus-wide activities which will enhance programming goals
29 of the facility;

30 (2) Holiday functions which may include decorations, food
31 and gifts for residents or family of residents;

32 (3) Rental of videos;

33 (4) Payment of video license;

34 (5) Supplemental supplies and equipment which will enrich
35 the facilities' program activities;

36 (6) Hardship needs for juvenile residents if approved by the
37 Division of Juvenile Services Director; and

38 (7) Any special activities or rewards for residents.

39 (d) The facility shall compile a monthly report that
40 specifically documents juvenile benefit fund receipts and
41 expenditures and submit the reconciled monthly bank statements
42 to the Division of Juvenile Services Assistant Director of Budget
43 and Finance.

CHAPTER 102

(H. B. 4504 - By Delegates Perry, Morgan, Campbell and Ellem)

[Passed February 27, 2014; in effect ninety days from passage.]
[Approved by the Governor on March 7, 2014.]

AN ACT to amend and reenact §49-7-1 of the Code of West Virginia, 1931, as amended, relating to allowing the Division of Juvenile Services to share juvenile records under certain circumstances with another state if that state has a reciprocal agreement with this state; specifying the circumstances when information may be shared; authorizing the Division of Juvenile Services to enter into agreements with other states; and authorizing rule-making authority.

Be it enacted by the Legislature of West Virginia:

That §49-7-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. GENERAL PROVISIONS.

§49-7-1. Confidentiality of records.

- 1 (a) Except as otherwise provided in this chapter or by order
- 2 of the court, all records and information concerning a child or
- 3 juvenile which are maintained by the Division of Juvenile
- 4 Services, the Department of Health and Human Resources, a
- 5 child agency or facility, court or law-enforcement agency shall
- 6 be kept confidential and shall not be released or disclosed to
- 7 anyone, including any federal or state agency.

8 (b) Notwithstanding the provisions of subsection (a) of this
9 section or any other provision of this code to the contrary,
10 records concerning a child or juvenile, except adoption records
11 and records disclosing the identity of a person making a
12 complaint of child abuse or neglect shall be made available:

13 (1) Where otherwise authorized by this chapter;

14 (2) To:

15 (A) The child;

16 (B) A parent whose parental rights have not been terminated;
17 or

18 (C) The attorney of the child or parent;

19 (3) With the written consent of the child or of someone
20 authorized to act on the child's behalf; or

21 (4) Pursuant to an order of a court of record: *Provided*, That
22 the court shall review such record or records for relevancy and
23 materiality to the issues in the proceeding and safety, and may
24 issue an order to limit the examination and use of the records or
25 any part thereof.

26 (c) In addition to those persons or entities to whom
27 information may be disclosed under subsection (b) of this
28 section, information related to child abuse or neglect
29 proceedings, except information relating to the identity of the
30 person reporting or making a complaint of child abuse or
31 neglect, shall be made available, upon request, to:

32 (1) Federal, state or local government entities, or any agent
33 of such entities, including law-enforcement agencies and
34 prosecuting attorneys, having a need for such information in

35 order to carry out its responsibilities under law to protect
36 children from abuse and neglect;

37 (2) The child fatality review team;

38 (3) Child abuse citizen review panels;

39 (4) Multidisciplinary investigative and treatment teams; or

40 (5) A grand jury, circuit court or family court, upon a finding
41 that information in the records is necessary for the determination
42 of an issue before the grand jury, circuit court or family court.

43 (d) In the event of a child fatality or near fatality due to child
44 abuse and neglect, information relating to such fatality or near
45 fatality shall be made public by the Department of Health and
46 Human Resources and to the entities described in subsection (c)
47 of this section, all under the circumstances described in that
48 subsection: *Provided*, That information released by the
49 Department of Health and Human Resources pursuant to this
50 subsection shall not include the identity of a person reporting or
51 making a complaint of child abuse or neglect. For purposes of
52 this subsection, “near fatality” means any medical condition of
53 the child which is certified by the attending physician to be life
54 threatening.

55 (e) Except in juvenile proceedings which are transferred to
56 criminal proceedings, law-enforcement records and files
57 concerning a child or juvenile shall be kept separate from the
58 records and files of adults and not included within the court files.
59 Law-enforcement records and files concerning a child or
60 juvenile shall only be open to inspection pursuant to the
61 provisions of sections seventeen and eighteen, article five of this
62 chapter.

63 (f) Any person who willfully violates the provisions of this
64 section is guilty of a misdemeanor and, upon conviction thereof,

65 shall be fined not more than \$1,000, or confined in the county or
66 regional jail for not more than six months, or be both fined and
67 confined. A person convicted of violating the provisions of this
68 section shall also be liable for damages in the amount of \$300 or
69 actual damages, whichever is greater.

70 (g) Notwithstanding the provisions of this section, or any
71 other provision of this code to the contrary, the name and
72 identity of any juvenile adjudicated or convicted of a violent or
73 felonious crime shall be made available to the public.

74 (h)(1) Notwithstanding the provisions of this section, or any
75 other provision of this code to the contrary, the Division of
76 Juvenile Services may provide access to and the confidential use
77 of a treatment plan, court records or other records of a juvenile
78 to an agency in another state which:

79 (A) Performs the same functions in that state that are
80 performed by the Division of Juvenile Services in this state;

81 (B) Has a reciprocal agreement with this state; and

82 (C) Has legal custody of the juvenile.

83 (2) A record which is shared under this subsection may only
84 provide information which is relevant to the supervision, care,
85 custody and treatment of the juvenile.

86 (3) The Division of Juvenile Services is authorized to enter
87 into reciprocal agreements with other states and to propose rules
88 for legislative approval in accordance with the provisions of
89 article three, chapter twenty-nine-a of this code to implement the
90 provisions of this subsection.

91 (4) Other than the authorization explicitly given in this
92 subsection, this subsection may not be construed to enlarge or
93 restrict access to juvenile records as provided elsewhere in this
94 code.

CHAPTER 103

**(Com. Sub. for S. B. 376 - By Senators Yost, Fitzsimmons,
Kessler (Mr. President) and Wells)**

[Passed March 8, 2014; to take effect July 1, 2014.]

[Approved by the Governor on March 26, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-3-22, relating to safety and welfare of employees at certain public improvement sites by public authorities; defining terms; requiring onsite employees at certain public improvement sites to complete an Occupational Safety and Health Administration-approved ten-hour construction safety program; requiring the retention of training records; providing for incremental implementation period for mandate; providing the Commissioner of Labor to issue cease and desist notices in certain situations; providing civil penalties for violations; creating a misdemeanor offense and providing criminal fines for exhibiting false documents; exempting certain construction activities and persons from application of this section; and requiring a report from the Commissioner of Labor on effectiveness of the safety training.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §21-3-22, to read as follows:

ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.

§21-3-22. OSHA construction safety program.

- 1 (a) For the purposes of this section:
- 2 (1) “Business entity” means any firm, partnership,
- 3 association, company, corporation, limited partnership, limited
- 4 liability company or other entity.

5 (2) “Commissioner” means the Commissioner of Labor or
6 his or her designee.

7 (3) “Public authority” has the same meaning as in section
8 two, article one-d of this chapter.

9 (4) “Public improvement” has the same meaning as in
10 section two, article one-d of this chapter.

11 (b) No person or business entity providing services as a
12 contractor or subcontractor under a contract, entered on or after
13 July 1, 2014, for the construction, reconstruction, alteration,
14 remodeling or repairs of any public improvement, by or on
15 behalf of a public authority, where the total contract cost of all
16 work to be performed by all contractors and subcontractors is in
17 excess of \$50,000, may use, employ or assign any person to a
18 public improvement work site who has not successfully
19 completed a ten-hour construction safety program designed by
20 OSHA, no later than twenty-one calendar days after being
21 employed at or assigned to the public improvement work site.

22 (c) The training requirement contained in subsection (b) of
23 this section does not apply to a person used, employed or
24 assigned to a public improvement work site for less than twenty-
25 one consecutive calendar days following the person’s first day
26 of employment or assignment at the public improvement work
27 site.

28 (d) During the three hundred sixty-five days following the
29 effective date of this section, a person employed or assigned to
30 a public improvement work site shall have ninety days to
31 complete the training requirement of subsection (b) of this
32 section.

33 (e) A contractor or subcontractor subject to this section shall
34 make and maintain a record of the persons he or she uses,
35 employs or assigns pursuant to the contract, including the date
36 of the completion of the safety training program required by
37 subsection (b) of this section and the identity of the provider of

38 the training. The records required by this subsection shall be
39 preserved pursuant to section five, article five-c of this chapter
40 and be maintained at the employer's business office.

41 (f) Upon a finding by the commissioner that a person has
42 been used, employed at or assigned to a public improvement
43 work site in violation of subsection (b) of this section, the
44 commissioner may issue a cease-and-desist order to the person
45 who has not completed the requisite training until the person
46 presents the commissioner with evidence that he or she has
47 successfully completed the training program required by
48 subsection (b) of this section.

49 (g) The commissioner may assess a civil penalty of not less
50 than \$100 nor more than \$1,000 to any person or business entity
51 for each violation of this section.

52 (h) Any person with knowledge that a document or other
53 record falsely represents that a person has completed the training
54 program required by subsection (b) of this section and who
55 provides or exhibits the document or record to the commissioner
56 or to an employer shall be guilty of a misdemeanor and, upon
57 conviction thereof, shall be fined not less than \$250 nor more
58 than \$2,500.

59 (i) The following persons are exempt from the training
60 requirements of subsection (b) of this section:

61 (1) Law-enforcement officers involved with traffic control
62 or job-site security;

63 (2) Federal, state and municipal government employees and
64 inspectors; and

65 (3) Suppliers of materials and persons whose sole
66 responsibility is to deliver materials to the work site.

67 (j) The Commissioner shall report to the Joint Committee on
68 Government and Finance by January 1, 2017, on accident and
69 injury rates at public improvement work sites during the two
70 years prior and following enactment of this section.