

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



VOLUME II
REGULAR SESSION, 2020

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

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF

STEPHEN J. HARRISON
CLERK OF THE HOUSE



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

CLERK'S OFFICE LEGISLATIVE GROUP - 2020

BO HOOVER
Assistant Clerk/Parliamentarian

Lynn Lewis
Journal Clerk

Robert Altmann

Anne Landgrebe

Lori Skull

TABLE OF CONTENTS

VOLUME II

Schedule showing legislative and calendar days.....	V
Journal of proceedings	
(Regular Session, 2020) <i>See</i> Vol. I.....	1
(Regular Session, 2020) Vol. II.....	1357
(Regular Session, 2020) <i>See</i> Vol. III.....	2751
Index	3591
(This index is arranged as follows: Delegates, etc., House Bills, House Concurrent Resolutions, House Joint Resolutions, House Resolutions, Senate Bills, Senate Concurrent Resolutions and Senate Joint Resolutions.)	
Topical Index	3833
(This is an index by subject to all House Bills introduced for the Regular Session.)	
Disposition of bills enacted.....	3907
Appendix.....	3915

**SCHEDULE SHOWING LEGISLATIVE DAYS
AND CALENDAR DAYS
AND PAGES OF JOURNAL COVERING SAME
REGULAR SESSION, 2020**

			Page
1st Day.....	Wednesday.....	January 8.....	1
2nd Day.....	Thursday.....	January 9.....	63
3rd Day.....	Friday.....	January 10.....	77
6th Day.....	Monday.....	January 13.....	93
7th Day.....	Tuesday.....	January 14.....	113
8th Day.....	Wednesday.....	January 15.....	199
9th Day.....	Thursday.....	January 16.....	219
10th Day.....	Friday.....	January 17.....	245
13th Day.....	Monday.....	January 20.....	269
14th Day.....	Tuesday.....	January 21.....	289
15th Day.....	Wednesday.....	January 22.....	317
16th Day.....	Thursday.....	January 23.....	349
17th Day.....	Friday.....	January 24.....	381
20th Day.....	Monday.....	January 27.....	407
21st Day.....	Tuesday.....	January 28.....	435
22nd Day.....	Wednesday.....	January 29.....	465
23rd Day.....	Thursday.....	January 30.....	489
24th Day.....	Friday.....	January 31.....	525
27th Day.....	Monday.....	February 3.....	555
28th Day.....	Tuesday.....	February 4.....	593
29th Day.....	Wednesday.....	February 5.....	639
30th Day.....	Thursday.....	February 6.....	667
31st Day.....	Friday.....	February 7.....	699
34th Day.....	Monday.....	February 10.....	729
35th Day.....	Tuesday.....	February 11.....	759
36th Day.....	Wednesday.....	February 12.....	845
37th Day.....	Thursday.....	February 13.....	887
38th Day.....	Friday.....	February 14.....	933
41st Day.....	Monday.....	February 17.....	979
42nd Day.....	Tuesday.....	February 18.....	1047
43rd Day.....	Wednesday.....	February 19.....	1113
44th Day.....	Thursday.....	February 20.....	1201
45th Day.....	Friday.....	February 21.....	1255
48th Day.....	Monday.....	February 24.....	1357
49th Day.....	Tuesday.....	February 25.....	1383
50th Day.....	Wednesday.....	February 26.....	1491
51st Day.....	Thursday.....	February 27.....	1543
52nd Day.....	Friday.....	February 28.....	1615
53rd Day.....	Saturday.....	February 29.....	1667
55th Day.....	Monday.....	March 2.....	1731
56th Day.....	Tuesday.....	March 3.....	1781
57th Day.....	Wednesday.....	March 4.....	1855

58th Day	Thursday	March 5.....	2255
59th Day	Friday	March 6.....	2579
60th Day	Saturday	March 7.....	2751

Monday, February 24, 2020

FORTY-EIGHTH DAY

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Friday, February 21, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Cooper, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. C. R. 1, Designating dogs adopted from animal shelters and rescues as WV official state dog,

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

In accordance with the former direction of the Speaker, the resolution (S. C. R. 1) was referred to the Committee on Rules.

Delegate Cooper, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 142, Expanding Coyote Control Program through voluntary assessment on breeding cows,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 142) was referred to the Committee on Finance.

Delegate Cooper, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 490, Relating to criminal offenses against agricultural facilities,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 490) was referred to the Committee on the Judiciary.

Motions

Delegate Hornbuckle moved, under the provisions of House Rule 82, to discharge **H. B. 4885**, “Katherine Johnson and Dorothy Vaughan Fair Pay Act”, from the Committee on the Judiciary.

Delegate Summers moved that the motion to discharge be laid upon the table.

On this question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 291**), and there were—yeas 58, nays 40, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Azinger, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Fleischauer and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the motion to discharge was laid upon the table.

Special Calendar

Unfinished Business

Com. Sub. for H. C. R. 75, Naming the highest peak on Wolf Creek Mountain in Monroe County, Boone's Peak; coming up in regular order, as unfinished business, was reported by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 292**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (Com. Sub. for H. C. R. 75) adopted.

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

Third Reading

Com. Sub. for S. B. 657, Allowing designation of tourism development districts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 293**), and there were—yeas 88, nays 11, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Campbell, Doyle, Evans, Fleischauer, Hornbuckle, Lavender-Bowe, Pyles, Rodighiero, Sypolt, R. Thompson and Zukoff.

Absent and Not Voting: Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 657) passed.

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

On this question, the yeas and nays were taken (**Roll No. 294**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Campbell, Doyle, Evans, Fleischauer, Lavender-Bowe and Zukoff.

Absent and Not Voting: Rowe.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 657) takes effect from its passage.

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

Com. Sub. for H. B. 3127, Relating to the Secondary School Activities Commission and participation by home schooled students; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 295**), and there were—yeas 61, nays 38,

absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cooper, Dean, Diserio, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Lavender-Bowe, Longstreth, Miley, Nelson, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rohrbach, Skaff, Sponaugle, Storch, Swartzmiller, C. Thompson, R. Thompson, Walker, Westfall, Williams and Zukoff.

Absent and Not Voting: Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3127) passed.

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

Com. Sub. for H. B. 4009, Relating to the process for involuntary hospitalization; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 296**), and there were—yeas 81, nays 18, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Bibby, S. Brown, Caputo, Dean, Diserio, Fleischauer, Fluharty, Kump, Longstreth, P. Martin, McGeehan, Paynter, Phillips, Sponaugle, Staggers, R. Thompson and Wilson.

Absent and Not Voting: Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4009) passed.

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

Com. Sub. for H. B. 4009 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a, relating to involuntary hospitalization; setting forth a procedure; defining terms; providing for payment for services; limiting liability; requiring the West Virginia Supreme Court of Appeals to generate certain documents; requiring the West Virginia Supreme Court of Appeals to produce information to hospitals regarding contact information; requiring a report to be filed with the West Virginia Supreme Court of Appeals; requiring certain information to be placed in a medical record; permitting the release of the individual; and setting forth payment for services; and specifying that any action taken under this section does not satisfy the requirements of another section.”

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

Com. Sub. for H. B. 4252, Authorizing miscellaneous agencies and boards to promulgate legislative rules; on third reading, coming up in regular order, with an amendment pending, was reported by the Clerk.

An amendment, offered by Delegate Fast, was reported by the Clerk.

Whereupon,

Delegate Fast obtained unanimous consent to withdraw the amendment and offer the following amendment, which was reported by the Clerk:

On page ten, section three, line eighty, following the word “authorized”, by striking out the period and inserting the following:

“with the following amendment:

On page 7, section 7, subsection 7.4, after the word “items”, by inserting the words “excluding whole uncut produce”.

The question being on adoption of the amendment, the same was put and the amendment was adopted.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 297**), and there were—yeas 83, nays none, absent and not voting 17, with the absent and not voting being as follows:

Absent and Not Voting: Bates, Campbell, Dean, Fleischauer, Fluharty, Hardy, Hicks, J. Jeffries, Lavender-Bowe, Paynter, Porterfield, Rodighiero, Rowe, Skaff, Sponaugle, Steele and Toney.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4252) passed.

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

On this question, the yeas and nays were taken (**Roll No. 298**), and there were—yeas 83, nays none, absent and not voting 17, with the absent and not voting being as follows:

Absent and Not Voting: Bates, Campbell, Dean, Fleischauer, Fluharty, Hardy, Hicks, J. Jeffries, Lavender-Bowe, Paynter, Porterfield, Rodighiero, Rowe, Skaff, Sponaugle, Steele and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4252) takes effect from its passage.

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

Com. Sub. for H. B. 4388, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 299**), and there were—yeas 73, nays 11, absent and not voting 16, with the nays and absent and not voting being as follows:

Nays: Butler, Cooper, Fast, Hansen, D. Jeffries, Jennings, Mandt, Rowan, Sypolt, Walker and Worrell.

Absent and Not Voting: Bates, Campbell, Dean, Fleischauer, Fluharty, Hardy, Hicks, J. Jeffries, Lavender-Bowe, Paynter, Porterfield, Rodighiero, Rowe, Skaff, Sponaugle and Toney.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4388) passed.

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

Com. Sub. for H. B. 4530, Authorizing daily passenger rental car companies to charge reasonable administrative fees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 300**), and there were—yeas 87, nays 7, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Barrett, S. Brown, Fleischauer, Fluharty, J. Jeffries, Paynter and Robinson.

Absent and Not Voting: Bates, Dean, Lavender-Bowe, Porterfield, Rowe and Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4530) passed.

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

Com. Sub. for H. B. 4626, West Virginia Development Achievements Transparency Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 301**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Lavender-Bowe and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4626) passed.

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

Com. Sub. for H. B. 4668, Creating the misdemeanor crime of trespass for entering a structure that has been condemned; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 302**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, S. Brown, Fluharty and Sponaugle.

Absent and Not Voting: Dean, Hicks and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4668) passed.

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

Com. Sub. for H. B. 4748, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts; on third reading, coming up in regular order, was read a third time.

Delegates Angelucci, Barrett, Estep-Burton, Hott, Kessinger, Linville, Little, Porterfield, Sponaugle, Steele, Storch, Sypolt and Westfall requested to be excused from voting on Com. Sub. for H. B. 4748 under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 303**), and there were—yeas 88, nays 10, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Campbell, Hardy, D. Jeffries, Kessinger, Maynard, McGeehan, Pack, Paynter and Summers.

Absent and Not Voting: Dean and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4748) passed.

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

Second Reading

Com. Sub. for S. B. 502, Relating to methamphetamine criminal penalty; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-401. Prohibited acts A; penalties.

(a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

Any person who violates this subsection with respect to:

(i) (1) A controlled substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both;

(ii) (2) Any other controlled substance classified in Schedule I, II or III is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than \$15,000, or both; but if the ~~other~~ controlled substance is methamphetamine, upon conviction, may be imprisoned in the state correctional facility for not less than two nor more than 10 years, or fined not more than \$25,000, or both.

(iii) (3) A substance classified in Schedule IV is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both;

(iv) (4) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

(i) (1) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both;

(ii) (2) Any other counterfeit substance classified in Schedule I, II or III is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than \$15,000, or both;

(iii) (3) A counterfeit substance classified in Schedule IV is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both;

(iv) (4) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article 10 of this chapter, the penalties established in said article apply.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor and, disposition may be made under §60A-4-407 of this code, subject to the limitations specified in said section, or upon conviction, such person may be confined in jail not less than 90 days nor more than six months, or fined not more than \$1,000, or both: *Provided*, That

notwithstanding any other provision of this act to the contrary, any first offense for possession of ~~Synthetic Cannabinoids equivalents or substitutes for tetrahydrocannabinols subdivision (32) subsection, (d), section 101, article 1 of this chapter;~~ 3,4-methylenedioxypropylvalerone (MDPV) (~~MPVD~~)—and 3,4-methylenedioxypropylvalerone; and/or 4-methylmethcathinone (Mephedrone) as identified in §60A-2-204(d); ~~defined in subsection (f), section 101, article 1 of this chapter~~ or less than 15 grams of marijuana, shall be disposed of under said section.

(d) It is unlawful for any person knowingly or intentionally:

(1) To create, distribute or deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or

(2) To create, possess or sell or otherwise transfer any equipment with the intent that such equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or the container or label of a counterfeit substance or an imitation controlled substance.

(3) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be imprisoned in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both. Any person being 18 years old or more who violates subdivision (1) of this subsection and, in so doing, distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than such person is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both.

(4) The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo.”

The bill was then ordered to third reading.

Com. Sub. for H. B. 2088, Relating to admissibility of certain evidence in a civil action for damages; on second reading, coming

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

Com. Sub. for H. B. 2149, Relating to the Farm-To-Food Bank Tax Credit; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2646, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees; on second reading, coming up in regular order, was read a second time.

Delegates Hornbuckle and Fleischauer moved to amend the bill on page two, line twenty-four, following section four-a and the period, by inserting a new section, to read as follows:

“§21-5-4b. The Katherine Johnson and Dorothy Vaughan Safe Harbor for Employees Fair Pay Act.

(a)(1) This section may be cited as the ‘Katherine Johnson and Dorothy Vaughn Safe Harbor for Employees Fair Pay Act,’ in honor of these two brilliant African American mathematicians with close ties to Morgantown, Institute, and White Sulphur Springs, West Virginia.

(2) Dorothy Johnson Vaughn was born in Kansas City, Missouri, and moved with her family to Morgantown, West Virginia, when she was seven. Selected as valedictorian, Ms. Vaughan graduated from Beechurst High School in Morgantown in 1925 and received a B.S. degree in 1929 from Wilberforce University in Zenia, Ohio. In 1943 she took a position at NACA, the National Advisory Committee for Aeronautics (the predecessor agency to NASA) in Hampton, Virginia. Ms. Vaughan was among the first group of African Americans to be hired as mathematicians and scientists following an Executive Order from President Roosevelt prohibiting discrimination in the defense industry. State law requiring “colored” employees to work separately from their white counterparts was followed despite the Order. In 1949 Ms. Vaughan became the first black supervisor at NACA when she was

promoted to manager of the West Area Computers. This workgroup was composed entirely of African-American female mathematicians. Ms. Vaughan led the West Area Computing program for a decade. In 1958, NACA became NASA and abolished the segregated working environment. Ms. Vaughan joined the new Analysis and Computation Division, becoming an expert FORTRAN programmer. Sadly, after desegregation, Ms. Vaughan sought but never received another management position at NASA. Ms. Vaughan died on November 10, 2008. Her legacy and the story of the other women of West Computing lives on in the 2016 film *Hidden Figures*.

(3) Katherine Coleman Gobel Johnson was born on August 26, 1918 in White Sulphur Springs, and educated in West Virginia. Later awarded the Presidential Medal of Freedom, America's highest civilian honor, Ms. Johnson's brilliance with numbers landed her on the campus of historically black West Virginia State College at age 13. In 1939, she was one of three black students chosen to help integrate the graduate program at West Virginia University. Although her complex analyses were used in America's first human space flight and landing on the moon, she and the black female crew with whom she worked were degraded by having to use a segregated bathroom a long distance from their worksite. The women in her unit suffered economically as well, by being paid far less than their white male counterparts at Langley who performed similar work. This legislation is intended to prevent future wage discrimination like that endured by Ms. Johnson and her black female coworkers, by providing greater transparency about pay rates and banning practices that may perpetuate the effects of past wage discrimination.

(b) It is an unlawful discriminatory practice, unless based on a bona fide occupational qualification, or except where based on applicable security regulations established by the United States or the State of West Virginia or its agencies or political subdivisions, for any employer to:

(1) Prohibit or retaliate against an employee for disclosing his or her own wages or discussing or inquiring with other employees about their wages; and

(2) Request or require applicants to disclose salary or benefit as a condition of being interviewed, considered for employment, offered compensation, or being employed, or to inquire about job applicants' salary or benefit history from current or former employers.

(c) It is not an unlawful discriminatory practice for an employer confirm the applicant's salary history if:

(1) The applicant has voluntarily disclosed it; or

(2) The employer has already negotiated and made an offer of employment with compensation to the applicant.”

Delegate Summers arose to a point of order as to the germaneness of the amendment and the Speaker ruled that the amendment was not germane to the bill.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4019, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4354, Adding nabiximols to the permitted list of distributed and prescribed drugs; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4360, Exempting certain persons from heating, ventilating, and cooling system licensing requirements; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4377, The Protection of Vulnerable Adults from Financial Exploitation Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4396, Relating to reporting suspected governmental fraud; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4409, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Maynard, Sponaugle and Boggs, the bill was amended on page three, section thirty-three-a, beginning on line sixty-two, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

“(e) Upon the conclusion of the fiscal year ending June 30, ~~2020~~ 2022, the provisions of this section and §12-4-14a of this code shall expire and be of no further force and effect and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund shall be closed. Upon closure of the fund, from any balances therein remaining, the State Auditor shall first, to the extent available, transfer to the Fire Protection Fund an amount equal to the aggregate of funds deposited into the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund during the fiscal years ending June 30, 2014, 2015, 2016, 2017, 2018, ~~2019 and 2020~~ 2019, 2020, 2021 and 2022 pursuant to subsection (b) of this section that would otherwise have been required to be deposited into the Fire Protection Fund, and any balances thereafter remaining in the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund shall expire to the General Revenue Fund of the state. Notwithstanding any provision of this code to the contrary, on June 30, 2020, the State Auditor shall transfer one million eight hundred thousand dollars from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund to the Fire Service Equipment and Training Fund created pursuant to §29-3-5f of this code.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4421, Natural Gas Liquids Economic Development Act; on second reading, coming up in regular order,

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

Com. Sub. for H. B. 4433, Relating to deeds of trust; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4447, Creating the shared table initiative for senior citizens who suffer from food insecurity; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4464, Relating to driving privileges and requirements for persons under the age of 18; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Maynard and Householder, the bill was amended on page two, section four, line eight, following the words “fire department”, by striking out the word “responses” and inserting in lieu thereof the word “activities”.

The bill was then ordered to engrossment and third reading.

H. B. 4606, Listing contractor classifications on a contractor license; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4715, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4760, Modifying video lottery retailer licensing eligibility requirements; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4780, Permitting county boards to offer elective courses of instruction on the Bible; on second reading, coming up in regular order, was read a second time.

Delegates Pushkin and Doyle moved to amend the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“§18-2-9a. Elective courses of instruction on sacred texts or comparative religions.

(a) County boards of education may offer to students in grade nine or above an elective social studies course on sacred texts or comparative world religions.

(b)The purpose of the elective courses authorized by the provisions of subsection (a) of this section is:

(1) To educate students as to the contents of the texts in an objective, academic manner which neither promotes nor disparages any religion;

(2) To educate students as to literary forms and symbols in the texts which are referred to in art, music, and literature; and

(3) To educate students as to the influence of the texts on history, philosophy, law, and culture.

(c) A student electing to take a course authorized by the provisions of subsection (a) of this section shall not be required to use a specific translation or version of the particular subject matter of the course.

(d) A county board of education electing to allow a course authorized by this section shall submit to the West Virginia Department of Education the course standards for any elective to be offered pursuant to subsection (a) of this section, including the teacher qualifications and required professional development.

(e) A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious

neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school. A course under this section may not endorse, favor, promote, disfavor, or show hostility toward any particular religion or nonreligious faith or religious perspective. Any county board offering a course under this section shall not violate any provision of the United States Constitution or federal law, the West Virginia Constitution or any state law, any administrative regulations of the United States Department of Education, or any rule of the state board. The state board shall provide guidance to the county boards on complying with the requirements of this subsection.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 304**), and there were—yeas 45, nays 53, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, S. Brown, Byrd, Campbell, Canestraro, Capito, Caputo, Cowles, Diserio, Doyle, Espinosa, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Higginbotham, Hill, Hornbuckle, Householder, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Nelson, Pushkin, Pyles, Queen, Robinson, Shott, Skaff, Sponaugle, Staggers, Summers, Swartzmiller, C. Thompson, Walker, Westfall, Williams and Zukoff.

Absent and Not Voting: Dean and Rowe.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to engrossment and third reading.

H. B. 4797, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4803, Relating to certification of electrical inspectors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4823, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4853, Relating to a customer constructing a connection or other infrastructure necessary for the customer to connect to the public utility; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4859, Accounting for state funds distributed to volunteer and part-volunteer fire companies and departments; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4872, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4882, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4886, Requiring the PSC and the DOH to submit reports concerning activity on the Coal Resource Transportation Road System; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4887, Relating to revocation, cancellation, or suspension of business registration certificates; on second reading, coming up

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

H. B. 4959, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4960, Relating to exempting from licensure as an electrician; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 554, Relating to termination, expiration, or cancellation of oil or natural gas leases,

Com. Sub. for S. B. 571, Expiring funds from State Excess Lottery Revenue Fund to various accounts,

S. B. 572, Expiring funds from General Revenue and Lottery Net Profits to various accounts,

S. B. 725, Supplemental appropriation to various Department of Education accounts,

S. B. 778, Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR,

S. B. 779, Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance,

S. B. 780, Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS,

Com. Sub. for H. B. 2478, Modifying the Fair Trade Practices Act,

Com. Sub. for H. B. 2897, Relating to driving restrictions in school zones,

H. B. 4159, Relating to the manufacture and sale of hard cider,

Com. Sub. for H. B. 4176, West Virginia Intelligence/Fusion Center Act,

Com. Sub. for H. B. 4362, Relating to penalties for neglect, emotional abuse or death caused by a caregiver,

H. B. 4402, Relating to designation of early voting locations,

Com. Sub. for H. B. 4439, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production,

Com. Sub. for H. B. 4461, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1,

Com. Sub. for H. B. 4494, Tobacco Use Cessation Initiative,

Com. Sub. for H. B. 4497, Requiring an external defibrillator device at any secondary school athlete event,

Com. Sub. for H. B. 4535, Relating to student aide class titles,

Com. Sub. for H. B. 4560, Relating to deliveries by a licensed wine specialty shop,

Com. Sub. for H. B. 4573, Relating to Medicaid subrogation liens of the Department of Health and Human Resources,

Com. Sub. for H. B. 4574, Establishing Just Transition support for coal and timber related jobs,

Com. Sub. for H. B. 4587, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities,

H. B. 4602, Increasing the penalty for DUI causing death when a child is present,

Com. Sub. for H. B. 4619, Approving plans proposed by electric utilities to install middle-mile broadband fiber,

Com. Sub. for H. B. 4639, Changing frequency of mandatory state inspections of motor vehicles,

Com. Sub. for H. B. 4648, The Parenting Fairness Act of 2020,

H. B. 4665, Reducing the amount of rebate going to the Purchasing Improvement Fund,

Com. Sub. for H. B. 4693, Expanding the scope of the Veterans to Agriculture Program,

H. B. 4705, Including three types of cancer for which rebuttable presumption of injury from employment exists for firefighters,

Com. Sub. for H. B. 4717, Seizure and Forfeiture Reporting Act,

Com. Sub. for H. B. 4746, Establishing a registry of persons with a communication disability,

H. B. 4804, Relating to comprehensive systems of support for teacher and leader induction and professional growth,

Com. Sub. for H. B. 4892, Reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold,

Com. Sub. for H. B. 4905, Ban-the-Box Act,

Com. Sub. for H. B. 4925, Requiring the Secondary Schools Athletic Commission to recognize private, parochial, or church schools,

H. B. 4929, Relating to the administrative closing of stale or unprogressed estates,

Com. Sub. for H. B. 4946, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy,

H. B. 4953, Providing the PSC with authority to order the acquisition of failing utilities and a variety of tools to assist distressed and failing utilities,

H. B. 4958, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs,

H. B. 4966, Relating generally to updating the North American Industry Classification System code references,

H. B. 4969, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations,

H. B. 4970, Relating to military service as a factor in certain insurance coverage rates,

And,

H. B. 4971, Relating to a closing hospital.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Rowe.

Miscellaneous Business

Pursuant to House Rule 94b, a form was filed with the Clerk's Office to be removed as a cosponsor of the following:

- Delegate McGeehan for H. B. 2685

At 1:59 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, February 25, 2020.

Tuesday, February 25, 2020

FORTY-NINTH DAY

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Monday, February 24, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for S. B. 502 and Com. Sub. for H. B. 4558, on Third Reading, Special Calendar, had been transferred to the House Calendar; S. B. 572, on Second Reading, Special Calendar, had been transferred to the House Calendar; and H. B. 4524 and Com. Sub. for H. B. 4852, on Second Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

S. B. 509, Relating to custodial allocation actions independent of divorce,

And,

Com. Sub. for S. B. 706, Clarifying duties of law-enforcement training and certification subcommittee,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 240, Requiring hotels and restaurants secure manhole covers of certain grease traps,

Com. Sub. for S. B. 529, Establishing limitations on claims and benefits against state,

And,

Com. Sub. for S. B. 583, Creating program to further development of renewable energy resources,

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

On motion for leave, the following resolutions were introduced (Originating in the Committee on Government Organization and reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which were read by their titles, as follows:

By Delegates Howell, C. Martin, Angelucci, Azinger, Barnhart, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker and Wilson:

H. C. R. 113 – “Requesting the Joint Committee on Government Finance study the licensing categories and the regulation of contractors by the West Virginia Contractors Licensing Board.”

Whereas, Contractors are an important and integral part of the West Virginia Economy and they work daily for the betterment of this state; and

Whereas, The Legislature is committed to studying and improving the regulations and licensing of West Virginia contractors to ensure the protection of the public while eliminating unnecessary barriers to employment; and

Whereas, The Legislature is committed to protecting the public while balancing economic opportunity by studying the various forms of licensure, certification, and registration of contractors and their various specialty designations to ensure the protection of the public is the least burdensome and as minimally restrictive as possible; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government Finance study the licensing categories and the regulation of contractors by the West Virginia Contractors Licensing Board; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Contractors Licensing Board, the Division of Labor, and the Department of Commerce cooperate with the legislature throughout the duration of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, C. Martin, Angelucci, Azinger, Barnhart, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker and Wilson:

H. C. R. 114 – “Requesting the Joint Committee on Government and Finance to conduct a study of licensure, certification and registration forms of occupational and professional regulation.”

Whereas, West Virginia licensing boards and authorities exist to protect the public good and to ensure professional standards among those who perform occupations and professions in this state; and

Whereas, Licensure, certification and registration may serve as a barrier to entry for citizens seeking employment, making it more difficult for them to pursue gainful and meaningful employment; and

Whereas, The Legislature is committed to protecting the public while balancing economic opportunity by studying the various forms of licensure, certification and registration of occupations and professions to ensure the protection of the public is the least burdensome and as minimally restrictive as possible; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance authorize a study of licensure, certification and registration forms of occupational and professional regulation; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, C. Martin, Angelucci, Azinger, Barnhart, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker and Wilson:

H. C. R. 115 – “Requesting the Joint Committee on Government and Finance to conduct a study of the feasibility of a

single building to house all occupational and professional regulatory boards.”

Whereas, Boards and commissions regulating various professions and occupations pursuant to Chapter 30 of the West Virginia Code, have been encouraged to reduce costs and have been granted specific permissive authority to share staff and office overhead, to promote public safety, to provide accessibility of the public and to reduce costs; and

Whereas, Smaller state licensing boards have joined together through a memorandum of understanding to combine office and staffing services, and other boards have been proposed to merge further promoting efficiencies, increasing public access, and improving public safety through the continuity of services; and

Whereas, Several other states, including Florida, Maine, Texas and Utah, have experience in centralized professional and occupational offices, from which this state could identify best practices in shared office services for occupational and professional regulation, including any problems with consolidation that can be avoided; and

Whereas, West Virginia should consider identifying a single building in Charleston to house the occupational and professional regulatory boards, to facilitate the consolidation of staffing functions to promote public access to regulatory services, to further ensure efficiencies and economies of scale in occupational and professional regulation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study of the feasibility of a single building to house all occupational and professional regulatory boards; and, be it

Further Resolved, that the Chapter 30 Boards and Commissions, and the Real Estate Division within the Department of Administration, shall cooperate with the Legislature in the conduct of this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, C. Martin, Angelucci, Azinger, Barnhart, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker and Wilson:

H. C. R. 116 – “Requesting the Joint Committee on Government and Finance to study duplicative and unnecessary professional and occupational regulations.”

Whereas, Various professional and occupational regulations have become antiquated over time, including modifications to the nomenclature and specialty designations where the governing statutes no longer reflect the current industry practices; and

Whereas, Certain professions and occupations are made up of primarily public employees and the classified service system is duplicitous in the evaluation of qualified applicants and licensure of those professions and occupations is likely redundant and unnecessary; and

Whereas, The Legislature is committed to periodic evaluation and assessment of various professional and occupational regulatory schemes to ensure the applicable protection of the public is provided as efficiently and effectively as possibly with the minimum burden to the public, market participants and industry; and

Whereas, Other states have determined that certain regulation of professions and occupations is unnecessary to protect the public, and the scope of practice of certain licensed professions and

occupations is identical or similar to unregulated professions and occupations; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study duplicative and unnecessary professional and occupational regulations; and, be it

Further Resolved, That all state regulatory professional and occupational boards and commissions, the Division of Personnel within the Department of Administration, WorkForce West Virginia and the Department of Commerce shall cooperate with the Legislature in the conduct of this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, C. Martin, Angelucci, Azinger, Barnhart, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Stagers, Sypolt, Tomblin, Walker and Wilson:

H. C. R. 117 – “Requesting the Joint Committee on Government and Finance to study state procurement policies to identify best practices, including exploring exceptions to the statewide contract and purchasing policies generally.”

Whereas, The West Virginia Legislature is committed to establishing clear policies and procedures to protect the public money entrusted to the government and its agencies, and to ensure that state procurement is done efficiently with the highest quality for the lowest cost; and

Whereas, Exemptions to the purchasing policies may be necessary in certain emergency situations in order to allow critical governmental functions to continue so the public is protected and served; and

Whereas, Legislative Audits of purchasing policy exempt agencies have identified several concerning practices, including but not limited to, stringing purchases together in excess of the dollar threshold where competitive bids should have been let and the purchasing of commodities off the statewide contract; and

Whereas, Circumstances do arise where a locally sourced equipment or products are readily available at a competitive cost where waiting on the statewide contract providers resulting in unavoidable delays and lost service delivery to the public; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study state procurement policies to identify best practices, including exploring exceptions to the statewide contract and purchasing policies generally; and, be it

Further Resolved, That the Purchasing Division and the Department of Administration shall cooperate with the Legislature in the conduct of this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And,

By Delegates Howell, C. Martin, Angelucci, Azinger, Barnhart, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker and Wilson:

H. C. R. 118 – “Requesting the Joint Committee on Government and Finance to study state logging regulations regarding trucking and related insurance requirements compared to other logging intensive states.”

Whereas, Forestry is a vital industry to the people of this state and results in a variety of value added products being available that enhance the quality of life of our citizens, providing good paying jobs and helping keep the economy of West Virginia vibrant; and

Whereas, This Legislature is committed to evaluating business and industry regulations to ensure they adequately protect the public in the least burdensome and most efficient and predictable manner to attract business to locate in this state; and

Whereas, Changes in the industry, improvements in equipment and safety over time requires the Legislature to periodically review and revise regulations to ensure this state has a level playing field compared to other logging intensive states; and

Whereas, The West Virginia Legislature is committed to attracting business to this state through the administration of reasonable regulations that are fair and predictable, that are not overly burdensome, that protect the public and promote economic prosperity; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study state logging regulations regarding trucking and related insurance requirements compared to other logging intensive states; and, be it

Further Resolved, That the Division of Forestry, the Department of Agriculture, the Public Service Commission and the Division of Highways shall cooperate with the Legislature in the conduct of this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolutions (H. C. R. 113, H. C. R. 114, H. C. R. 115, H. C. R. 116, H. C. R. 117 and H. C. R. 118) to the Committee on Rules.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 686, Exempting contract and common carrier laws for certain vehicles,

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

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

Your Committee on Government Organization has had under consideration:

H. C. R. 96, Requesting the Joint Committee on Government and Finance study the hiring exemptions of the West Virginia State Tax Department and the West Virginia Division of Highways—Department of Transportation,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 96) was referred to the Committee on Rules.

Delegate Graves, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

S. B. 523, Extending deadline for municipalities to offer Social Security coverage to certain municipal retirement system members,

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

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

Com. Sub. for S. B. 96, Prohibiting municipalities from limiting persons' rights to possess certain weapons,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 96) was referred to the Committee on the Judiciary.

On motion for leave, a resolution was introduced (Originating in the Committee on Political Subdivisions and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegates Storch, Miller, Walker, S. Brown, Little, Jennings, Doyle, Longstreth and Cowles:

H. C. R. 112 – “Requesting the Joint Committee on Government and Finance study the impact on counties that pay for

the cost of transporting persons requiring mental health treatment and/or substance abuse treatment to mental health facilities or state hospitals outside of that county.”

Whereas, The number of persons in West Virginia who have substance abuse issues or are mentally ill who require treatment under the provisions of §27-4-1 *et seq.* have increased over the past several years; and

Whereas, It is the duty of the sheriff of a county under §27-4-1 *et seq.* to provide transportation for those individuals to the appropriate mental health facility or state hospital, except in circumstances where that individual is to have arranged transportation upon written request by a person having proper interest in the individual’s hospitalization; and

Whereas, Many counties in West Virginia do not have mental health facilities and/or state-run hospitals located within their borders; and

Whereas, An increasing number of sheriffs, sheriff deputies, and EMS workers are transporting those persons needing mental health or substance abuse treatment for a very long distance, oftentimes for several hours; and

Whereas, That transportation is causing a negative financial impact upon the county currently paying for the cost of transportation of those individuals who require treatment, and upon those sheriffs statutorily required to provide such transportation; and

Whereas, There has been a recent shortage of mental health treatment facilities and state-run hospitals in the state of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to study the impact upon counties that pay for the cost of transporting such persons requiring mental health treatment

and/or substance abuse treatment to mental health facilities or state hospitals outside of that county; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature 2021, on its findings, conclusions and recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolution to the Committee on Rules.

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

Your Committee on Government Organization has had under consideration:

S. B. 552, Requiring contracts of \$25,000 or more be competitively bid,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 202, Allowing one member of PSD board to be county commissioner,

Com. Sub. for S. B. 225, Empowering municipalities to enact Adopt-A-Street programs,

S. B. 281, Removing residency requirement for persons applying for reappointment to municipal police dept,

S. B. 307, Correcting code citation relating to certain tax liens,

And,

Com. Sub. for S. B. 576, Relating to management of public records,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 241, Requiring State Board of Education develop method for student transportation costs as stand-alone consideration,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 652, Authorizing School Building Authority promulgate legislative rules,

S. B. 703, Increasing earning limit for employees who accept separation incentive,

S. B. 712, Correcting name of Forensic Analysis Laboratory,

And,

S. B. 781, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs,

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

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 24th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2086, Uniform Real Property Electronic Recording Act,

Com. Sub. for H. B. 2497, Relating to the whistle-blower law,
And,

Com. Sub. for H. B. 4058, Relating to pharmacy benefit managers.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on February 24, 2020, he approved **Com. Sub. for H. B. 2602**, **Com. Sub. for H. B. 2924**, **Com. Sub. for H. B. 4129**, **H. B. 4141**, **Com. Sub. for S. B. 46**, **Com. Sub. for S. B. 364**, **Com. Sub. for S. B. 470**, **Com. Sub. for S. B. 487**, **Com. Sub. for S. B. 500** and **Com. Sub. for S. B. 501**.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 528 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5I-1, §21-5I-2, §21-5I-3, §21-5I-4, §21-5I-5, and §21-5I-6, all relating to the West Virginia Employment Law Worker Classification Act; and clarifying definition of

‘independent contractor’”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 578 - “A Bill to amend and reenact §11-13-2o of the Code of West Virginia, 1931, as amended, relating to adjusting the calculation of business and occupation tax on the business of generating, producing, or selling electricity from solar energy facilities; and clarifying the taxable generating capacity for generating units utilizing solar photovoltaic methods shall equal eight percent of official capacity of the unit for the taxable period beginning January 1, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 579 - “A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-6-6b of said code, all relating to changing the wireless enhanced 911 fee; and establishing a separate public safety fee and wireless tower fee”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 586 - “A Bill to repeal §15-5-4 and §15-5-27 of the Code of West Virginia 1931, as amended; to repeal §29-3-1, §29-3-2, §29-3-3, §29-3-4, §29-3-5, §29-3-5a, §29-3-5b, §29-3-5c, §29-3-5d, §29-3-5e, §29-3-5f, §29-3-6, §29-3-7, §29-3-8, §29-3-9, §29-3-10, §29-3-11, §29-3-12, §29-3-12a, §29-3-12b,

§29-3-13, §29-3-14, §29-3-15, §29-3-16, §29-3-16a, §29-3-16b, §29-3-16c, §29-3-16d, §29-3-17, §29-3-18, §29-3-19, §29-3-21, §29-3-22, §29-3-27, §29-3-28, §29-3-29, §29-3-30, and §29-3-32 of said code; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §15-1A-3 of said code; to amend and reenact §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-20a, §15-5-24, and §15-5-26 of said code; to amend said code by adding thereto a new section, designated §15-5-29; to amend and reenact §15A-1-2 and §15A-1-3 of said code; to amend said code by adding thereto a new section, designated §15A-1-9; to amend said code by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, and §15A-9-7; to amend said code by adding thereto a new article, designated §15A-10-1, §15A-10-2, §15A-10-3, §15A-10-4, §15A-10-5, §15A-10-6, §15A-10-7, §15A-10-8, §15A-10-9, §15A-10-10, §15A-10-11, §15A-10-12, §15A-10-13, §15A-10-14, §15A-10-15, §15A-10-16, §15A-10-17, §15A-10-18, §15A-10-19, §15A-10-20, §15A-10-21, §15A-10-22, §15A-10-23, §15A-10-24, and §15A-10-25; to amend said code by adding thereto a new article, designated §15A-11-1, §15A-11-2, §15A-11-3, §15A-11-4, §15A-11-5, §15A-11-6, §15A-11-7, §15A-11-8, §15A-11-9, §15A-11-10, and §15A-11-11; to amend and reenact §19-1-4 of said code; to amend and reenact §19-21A-4 of said code; to amend and reenact §20-1-7 of said code; to amend and reenact §22-1-6 of said code; to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code; to amend said code by adding thereto a new section, designated §29-31-5; and to amend said code by adding thereto a new section, designated §33-2-23, all relating to reorganizing and redesignating the Department of Military Affairs and Public Safety as the Department of Homeland Security; clarifying the divisions that report to the cabinet secretary of that Department; removing the Adjutant General's Office, State Armory Board, and Military Awards Board from the Department of Military Affairs and Public Safety; clarifying the agencies established within the Department of Military Affairs and Public Safety; delineating that the secretary of each state Department cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; requiring that the Adjutant General cooperate with the State Resiliency Office to

the fullest extent practicable to assist that office in fulfilling its duties; designating the Department of Homeland Security as the State Administrative Agency for homeland security and emergency management grants; designating the Division of Homeland Security and Emergency Management as the Division of Emergency Management; making the employees of the Division of Emergency Management classified exempt employees; terminating the West Virginia Disaster Recovery Board; providing that the State Resiliency Officer have the authority to disburse funds from the Disaster Recovery Trust Fund; granting powers necessary to accomplish such disbursement to the State Resiliency Officer; providing for appropriations and other funding sources to the Disaster Recovery Trust Fund; deleting requirements for government entities with deficiently trained floodplain managers to transfer their floodplain oversight to another governmental entity; amending provisions regarding administration of the Disaster Recovery Trust Fund; providing the State Resiliency Officer need not pay taxes for moneys deposited in the Disaster Recovery Trust Fund or other assets of such Fund; repealing the provision for an annual report of the abolished Disaster Recovery Board; providing the Director of the Division of Emergency Management shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; establishing the powers and duties of the Secretary of the Department of Homeland Security; establishing the Office of Administrative Hearings within the Department of Homeland Security; authorizing the appointment of a Chief Hearing Examiner, establishing the organization of the Office of the Chief Hearing Examiner; establishing the jurisdiction of the office of administrative hearings; establishing hearing procedures; establishing rule-making authority; establishing a duty to provide notice of change of address; establishing policies for the transition from divisions of the Department of Homeland Security to the Office of Administrative Hearings; separating the Fire Marshal from the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the Department of Homeland Security; setting forth the appointment process for the Fire Marshal; setting forth qualifications, salary, and responsibilities of the State Fire Marshal; allowing the Fire Marshal to hire employees; allowing the

Fire Marshal to hire a deputy, and setting the qualifications of the deputy; requiring new Fire Marshals 1, 2, 3, and deputies to become certified law-enforcement officers; setting forth powers and duties of the State Fire Marshal; setting forth additional powers and duties relating to law enforcement, statewide contracts, penalties, and authority to carry firearms; creating enforcement standards for the state building and fire codes; creating rule-making authority; allowing the appointment of advisory boards; setting forth the responsibilities of insurance companies in fire loss investigations; allowing the Fire Marshal to set fees; requiring an annual report; setting forth maintenance of fire hazard standards; allowing orders for repair or demolition; allowing orders to contain notice to comply and a right to appeal; providing standards for service of repair or demolition orders; clarifying who is responsible for cost of work or demolition; allowing an action to recover cost; requiring smoke detectors in one- and two- family dwellings; requiring carbon monoxide detectors in residential units, schools, and day care facilities and setting forth penalties; allowing the use of live trees in public buildings under certain circumstances; setting forth safety standards for bed and breakfast establishments; setting forth standards for installation of propane gas systems; setting forth parameters to abate fire hazards; setting forth license denial, limitation, suspension, and revocation standards; creating an independent informal dispute process for licensees upon appeal; establishing demonstration building and equipment standards for educational instruction for fire protection and prevention and abatement; creating crime of false alarm of fires and setting forth penalties; creating tax on insurance companies; setting forth general criminal penalties for violation; setting forth that the parts of the article are construed liberally; creating a severability section; allowing the Fire Marshal to award service weapons to retiring employees under certain conditions; allowing the Fire Marshal to dispose of unused firearms; continuing the Fire Commission; setting forth composition, qualifications, appointment, terms of office, removal, vacancies, and compensation and expenses of commission; establishing chairperson, vice chairperson, meeting, and quorum requirements; creating rule-making authority for fire code, building code, and general rule-making authority; continuing the hazardous response training program; requiring public hearing

and notice prior to promulgation of fire code; setting forth commission's powers and conduct of public hearing; setting forth commission's powers duties and authority; setting forth authority over volunteer fire department training, and equipment, and creating rule-making authority for such; continuing courtesy certification of firefighters in surrounding states to serve as volunteer firefighters; continuing the Fire Service Equipment and Training Fund; providing the Commissioner of Agriculture shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the State Conservation Committee shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Director of the Division of Natural Resources shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Secretary of the Department of Environmental Protection shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; repealing generally now-obsolete provisions relating to the Fire Commission and State Fire Marshal; placing the State Resiliency office under the Office of the Governor; adding the President of the West Virginia Emergency Management Council, the Secretary of the Department of Homeland Security, Director of the Division of Emergency Management on the State Resiliency Office Board; adding two non-voting member legislators from each house of the Legislature to the State Resiliency Office Board; specifying tenure of office on that board; providing that members of the board serve without compensation, but may collect necessary expenses; providing certain mandatory duties for that Board; providing the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, and setting the duties and qualifications for such officer; providing for the employment of a deputy to the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, upon presentation from a list of names by the State Resiliency Office Board, and, setting the duties and qualifications for such officer; providing that the State Resiliency Officer and his or her deputy must have complimentary work experience; specifying the areas in which the State Resiliency

Office Board shall be required to assist the State Resiliency Officer to fulfill the missions of that office, and specifying the areas where that body shall assist the State Resiliency Officer to devise plans and develop procedures; providing for certain exemptions from the Public Meetings Act and Freedom of Information Act for meetings of, and materials presented to the Board; delineating the authority of the State Resiliency Office and the State Resiliency Officer in carrying out their missions; providing the State Resiliency Officer shall report at least quarterly to the Joint Legislative Committee on Flooding; granting the State Resiliency Officer authority to hire employees for the office; providing that such employees are at-will, may participate in state insurance and other programs, and, if entrusted with state funds, shall execute surety bonds; providing that the State Resiliency Officer shall set employee salary rates; creating the state Office of the National Flood Insurance Program in the Office of the Insurance Commissioner; requiring a coordinator to administer such program; providing that state owned property in any non-participating community shall be governed by appropriate rules promulgated by the Insurance Commissioner; requiring the coordinator and floodplain managers to develop a strategic plan to meet goals and objectives, which plan shall be reviewed by and must be approved by the State Resiliency Officer and State Resiliency Office Board; requiring the coordinator to establish and enforce flood plain management regulations in special hazard areas which are in conformity with Federal laws and regulations; and providing the coordinator of the state office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 586) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. B. 651 - “A Bill to amend and reenact §31-17A-2 of the Code of West Virginia, 1931, as amended, relating to the definition of ‘mortgage loan originator’”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 689 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, and §33-53-5, all relating to enacting the Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act; providing a short title; providing for definitions; outlining reporting requirements for drug manufacturers and health benefit plan issuers to the Auditor; outlining the pharmaceutical data required by the Auditor; directing the Auditor to create a searchable pharmaceutical transparency website; protecting confidentiality of patient information; providing registration requirements to drug manufacturers and health benefit plan issuers; requiring reporting to the Legislature; and outlining penalties when a health benefit plan or drug manufacturer fails to submit or submits inaccurate information to the Auditor”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 691 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-3-1j, relating to additional alternative preparation programs for teachers; providing that certain programs adopted by the State

Board of Education are separate from specified programs; providing that programs are subject to state board rules; and providing that programs may be an alternative to college and university programs for teacher education”; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 705 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-14-3a; to amend said code by adding thereto a new section, designated §29-3B-4a; and to amend said code by adding thereto a new section, designated §29-3D-4a, all relating to allowing military veterans with certain experience to qualify for examination for licensure as a plumber, electrician, sprinkler fitter, and sprinkler fitter in training; providing the qualifications to sit for a plumber’s examination; providing qualifications to sit for an electrician’s examination; and providing qualifications to sit for an examination of a sprinkler fitter in training or a journeyman sprinkler fitter”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 707 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-11a, relating to making a nursing career pathway available to students statewide; setting forth legislative findings; requiring that a nursing career pathway workgroup be convened; charging the workgroup with developing a career pathway to address the unmet need for nursing assistants, licensed practical nurses, registered nurses, and registered nurses with a bachelor’s degree in nursing; requiring the nursing career pathway to be made available to students statewide; requiring report to the

Legislative Oversight Commission on Education Accountability every month that the commission meets on the progress in implementing the career pathway; and requiring consideration of certain specified ideas in establishing the pathway”; which was referred to the Committee on Education.

A message from the Senate, by

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

S. B. 723 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-43, relating to requiring the West Virginia Department of Education to analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by county school boards; and requiring the West Virginia Department of Education to prepare a report on the findings and provide a summary of the progress of the statewide program which shall be presented to the Legislative Oversight Commission on Education Accountability every two years”; which was referred to the Committee on Education.

A message from the Senate, by

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

S. B. 727 - “A Bill to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended, relating to disbursement of the funds in the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund for highway road repair; providing that money from the fund is to be expended within the district where gas field and horizontal drilling waste is deposited; and updating grammatical style throughout the section.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 727) to a committee

was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

Com. Sub. for S. B. 728 - “A Bill to amend and reenact §7-1-3n of the Code of West Virginia, 1931, as amended, relating to prohibiting county commissions from enacting or enforcing property maintenance codes”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 734 - “A Bill to amend and reenact §17-2A-17 of the Code of West Virginia, 1931, as amended, relating to clarifying the powers and duties of the Division of Highways in acquiring property for state road purposes to include depth as well as width; and updating antiquated language.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 734) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

Com. Sub. for S. B. 751 - “A Bill to amend and reenact §8-6-4a of the Code of West Virginia, 1931, as amended, relating to removing certain requirements when a municipality seeks to annex property within an urban growth boundary”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 755 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, and §11-13FF-5, all relating to the High-Wage Growth Business Tax Credit Act”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 770 - “A Bill to amend and reenact §30-14-2 and §30-14-4 of the Code of West Virginia, 1931, as amended, all relating to definitions and applications for licensure or educational permits for osteopathic physicians and surgeons; revising requirements for post-doctoral training; and eliminating continuing medical education requirements for initial licensure”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 782 - “A Bill to amend and reenact §16-29B-8 of the Code of West Virginia, 1931, as amended, relating to the fees assessed on certain hospitals by the Health Care Authority; eliminating the assessment termination date; correcting a mathematical error; and other technical cleanup”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 787 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-53-1, relating to providing benefits to pharmacists for pharmacist care rendered within the pharmacist’s scope of practice if benefits would be provided for such services performed by other health care providers; providing for reimbursement pursuant to negotiations; and providing for effective date”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 803 - “A Bill supplementing and amending the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health, Central Office, fund 0407, fiscal year 2020, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 837 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-5A-1, §11-5A-2, §11-5A-3, §11-5A-4, §11-5A-5, §11-5A-6, §11-5A-7, §11-5A-8, and §11-5A-9; to amend and reenact §11-15-3 of said code; to amend and reenact §11-15A-2 of said code; and to amend and reenact §11-17-3 and §11-17-4b of said code, all relating to providing exemptions from ad valorem taxation for certain types of personal property and providing substitute revenue sources to levying bodies; setting out legislative findings; defining terms;

setting out legislative intent; providing for an exemption from ad valorem taxation for property classified as manufacturing machinery, equipment, and inventory over a six-year period; setting out exclusions from the exemption; providing for exemption from ad valorem taxation on motor vehicles over a six-year period; providing for exemption from ad valorem taxation on retail inventory over a six-year period; requiring the Governor and Legislature appropriate replacement revenue to levying bodies; providing for a four-year lookback from effective date of provision; providing that the state share of the county's basic foundation will be replaced; providing that any general revenue bond or levy in existence shall not be effected; allowing for procedural rules; creating a special revenue account; providing for an effective date; making elimination of ad valorem taxes contingent upon passage of constitutional amendment; increasing tax levied and imposed on sales and service; making increase of tax levied and imposed on sales and service contingent upon passage of constitutional amendment; providing for an effective date for the sales and service tax increase; increasing levied and imposed use tax; making increase of imposed and levied use tax contingent upon passage of constitutional amendment; providing for an effective date for the use tax increase; increasing excise tax levied and imposed on tobacco products; making increase excise tax levied and imposed on tobacco products contingent upon passage of constitutional amendment; providing for an effective date for the tax increase imposed on tobacco products increase; providing for apportionment of the increased revenue to be dedicated to a special account for tobacco use prevention, cessation, and nicotine treatment; increasing excise tax levied and imposed on sale of e-cigarette liquid; making increased excise tax levied and imposed on e-cigarette liquid contingent upon passage of constitutional amendment; providing for an effective date for the tax increase imposed on e-cigarette liquid; setting effective dates for tax increases; and providing additional tax revenue on tax increases be deposited in special revenue account"; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 838 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-55, relating to directing the State Police to establish a referral program for substance abuse treatment; exempting persons seeking treatment from arrest and prosecution; directing the destruction of controlled substances received from persons seeking treatment; requiring referrals to treatment of persons seeking same; specifying persons who are ineligible for referral; and immunizing the State Police and its employees civilly and criminally for making referrals and exempting records of program from freedom of information disclosure”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. C. R. 46 - “Requesting the Department of Environmental Protection and the Department of Health and Human Resources cooperatively propose and initiate a public source-water supply study plan to sample perfluoroalkyl and polyfluoroalkyl substances for all community water systems in West Virginia, including schools and daycares that operate treatment systems regulated by the West Virginia Department of Health and Human Resources.”

Whereas, The Legislature recognizes the prevalence and potential health risks of certain perfluoroalkyl and polyfluoroalkyl substances (PFAS). These compounds have been manufactured and are used in thousands of applications in a variety of industries and are an ingredient in some fire-fighting foams, food packaging, cleaning products, nonstick pots and pans, and various other household items. These compounds are very stable and accumulate in the environment, and many are highly water soluble, easily

transferring through soil to groundwater. Some are associated with adverse health effects; and

Whereas, The United States Environmental Protection Agency's lifetime drinking water health advisory level for the individual or the combined concentrations of two of the most studied of the PFAS compounds, perflouroctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in drinking water is currently 70 parts per trillion; and

Whereas, The United States Environmental Protection Agency is moving forward with the Maximum Contaminant Level process for PFOA and PFOS two of the most well-known and prevalent PFAS chemicals. The United States Environmental Protection Agency is also gathering and evaluating information to determine if regulation is appropriate for a broader class of PFAS; and

Whereas, In accordance with §7321 of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92), the United States Environmental Protection Agency added 160 per-and polyfluoroalkyl substances (PFAS) to the Emergency Planning and Community Right-to-Know Act's §313 list of reportable chemicals. Since January 1, 2020, Industry reporters have been required to track and collect data on the listed PFAS with the first Toxics Release Inventory (TRI) report due by July 1, 2021. Federal law requires industry to report this information to: (1) The State Emergency Response Commission, which in West Virginia is the West Virginia Division of Homeland Security and Emergency Management; (2) the Local Emergency Planning Committee; and (3) the fire department with jurisdiction over the affected facility; and

Whereas, It is in the public interest for West Virginia to identify the presence and prevalence of specific PFAS chemicals in and near drinking water supplies to protect the health of West Virginians; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Department of Environmental Protection and the Department of Health and Human Resources cooperatively propose and initiate a public source-water supply study plan to sample perfluoroalkyl and polyfluoroalkyl substances for all community water systems in West Virginia, including schools and daycares that operate treatment systems regulated by the West Virginia Department of Health and Human Resources; and, be it

Further Resolved, That the purpose of the PFAS public source-water supply study plan is to inform state regulatory agencies about the distribution of PFAS contamination and potential PFAS contamination in public drinking water sources using data of known quality. Specific objectives of the PFAS public source-water supply study plan shall include: (1) Identifying the drinking water supplies in West Virginia that have measurable amounts of PFOS, PFOA, and related PFAS compounds in their raw source-water; (2) Determining if there are geochemical, watershed, industrial use, land use, or geohydrologic factors or processes that affect the presence of these compounds in public source-water supplies; (3) Informing state agencies and the public of any need for additional PFAS investigation, such as sampling of domestic wells; and (4) Assisting state regulatory agencies in protecting public health by providing risk-based information on statewide PFAS distribution in source water; and, be it

Further Resolved, That any entity required to report PFAS compounds based on the TRI reporting requirements listed above shall also report that information to the Department of Environmental Protection by July 1, 2021.

Further Resolved, That the Department of Environmental Protection and the Department of Health and Human Resources report to the Joint Legislative Oversight Committee on State Water Resources semi-annually beginning in the fiscal year 2021, on its findings, conclusions, and recommendations.

Resolutions Introduced

Delegates Boggs, D. Jeffries, Hartman, Diserio, Skaff, Byrd, Hornbuckle, Lovejoy, Criss, Householder and Summers offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 105 - “Requesting the Division of Highways name bridge number 20-079/00-005.56 (NB) (20A500), (38.41964, - 81.54456), locally known as I-79 Coopers Creek Overpass NB-SB, carrying I-79 over CR 41 in Kanawha County, the ‘U. S. Air Force Colonel Rishel C. Walker Memorial Bridge’.”

Whereas, Rishel C. Walker was born at home in Tupper’s Creek, on September 27, 1929, the third child of Breman and Beulah Walker. He was the first person in his family to graduate from high school. He was a graduate from Elkview High School. He attended Morris Harvey and West Virginia State Colleges; and

Whereas, He joined the West Virginia Air National Guard upon graduation from high school. He was activated during the Korean War and also served in the Air Force. He received the rank of Colonel upon retirement in 1987; and

Whereas, Colonel Rishel C. Walker died at the age of 89 on February 15, 2019. He was survived by his loving wife, Sandra R. Walker and children, Jean Boggs (Husband, Delegate Brent), John Walker (Wife Rebecca), Nicole Kuhl (Husband Chris), and Natalie Gilham (Husband Tom), and grandchildren and great grandchildren; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Air Force Colonel Rishel C. Walker and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-079/00-005.56 (NB) (20A500), (38.41964, - 81.54456) locally known as I-79 Coopers Creek Overpass NB-SB, carrying I-79 over CR 41 in Kanawha County, the “U. S. Air Force Colonel Rishel C. Walker Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying the bridge as the “U. S. Air Force Colonel Rishel C. Walker Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates R. Thompson, Hicks, Rodighiero and Lovejoy offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 106 - “Requesting the Division of Highways informally name Keyser Street in Wayne, in Wayne County, the ‘U. S. Navy, Water Tender 3rd Class, V-6, Lewis Glenn Mills Memorial Boulevard.’”

Whereas, Lewis Glenn Mills was born on October 24, 1922, in a log cabin on Ed’s Branch in East Lynn, West Virginia. He was the ninth born of the 11 Mills children in his family. His father passed away when he was just seven years old. When he was 14 years old, he left school and home to work in the Civilian Conservation Corps to support his family during the Great Depression. He worked on Black Mountain, in Pocahontas County, WV, and helped cut timbers for the railroad until he enlisted in the United States Navy at the age of 21; and

Whereas, In 1943, Lewis Glenn was stationed on the U.S.S. Sims where he served as a gunner to a 40 caliber machine gun, and a Water Tender when his ship was not in duress. His ship escorted supply ships from New York to Derry, Ireland for almost two years. During this time, his boat protected the supply ships against Nazi submarines (U-Boats). His ship was then reassigned to the Pacific when the theater of war shifted from Europe to Asia in 1944. He spent over one year in the hospital recovering from his wounds and extreme exposure, after he was severely wounded in 1944; and

Whereas, Lewis Glenn was honorably discharged from the U. S. Navy on April 28, 1945, and returned home to Wayne, West Virginia. He mined coal in East Lynn, but soon decided to go back to school to make a better living. He attended Marshall College where he obtained a bachelor's degree in elementary education then his master's degree in School Administration. He taught elementary school at Hobbs Elementary, Dunlow Elementary, Genoa Elementary and East Lynn Elementary. He then became principal at Dunlow Elementary and Genoa Elementary; and

Whereas, Lewis Glenn served in the West Virginia House of Delegates from 1961 to 1964 and was a member of West Virginia's Centennial House. One of his accomplishments included cosponsoring of the bill that made Marshall College, Marshall University. He then ran for Assessor for Wayne County and won his next six elections, serving a total of 24 years as the Assessor of Wayne County. During those years, Lewis Glenn also served as an EMT for Wayne County 911, was a member of the Odd Fellows, served as Chairman of the Board of Presteria, and was designated a Silver Leader of the Disabled American Veterans or D.A.V. On June 12, 1982, he was appointed by A. James Manchin as West Virginia's Ambassador of Humanitarianism. Lewis Glenn was an avid supporter of mental health and the working class during his entire tenure as a public servant; and

Whereas, Lewis Glenn Mills retired with over 40 years of public service in 1988 and enjoyed being with his wife Erma Ferguson Mills and family until he passed away February 11, 2010, at the age of 87, at his home on Keyser Street where he resided for nearly six decades; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Navy, Water Tender 3rd Class V-6 Lewis Glenn Mills and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to informally name Keyser Street, in Wayne, in Wayne County, the

“U. S. Navy, Water Tender 3rd Class, V-6, Lewis Glenn Mills Memorial Boulevard”; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying the street as the “U. S. Navy, Water Tender 3rd Class, V-6, Lewis Glenn Mills Memorial Boulevard”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Robinson, Estep-Burton and Rowe offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 107 - “Requesting the Division of Highways name bridge number 20-060/00-028.94 (20A347), (38.22929, - 81.53375) locally known as 13th St. Overpass, carrying US 60 over CR 60/18 in Kanawha County, the ‘U. S. Army SSG Elson M. Kuhn Memorial Bridge’.”

Whereas, Elson Merrill Kuhn, was born on September 28, 1921, in Bim, West Virginia and attended Van High School, served in the First Cavalry Division, U. S. Army, in the Pacific Theater comprising of the Philippines, New Guinea, New Caledonia and the occupation force in Japan during World War II as duration duty orders entering in 1942 and honorably discharged as a Staff Sergeant on January 14, 1946; and

Whereas, After serving in the Army four years, Elson returned to West Virginia to work for the coal industry in an industrial baseball league which was popular after the post-war era and remained employed in the mining industry for a forty-year career after the coal company sought his talents as an electrician, of which he became licensed by the State and Federal government; and

Whereas, Before his army career, during his working life, and after his retirement, Elson contributed significantly to the build and upkeep of Kanawha State Forest through his membership in the Civilian Conservation Corps No. 2599 S76 Camp at Kanawha State

Forest in assisting in building the recreation areas and the infrastructure, including the dam, roads, fire towers, bridges, restrooms, picnic shelters, and the log home of the superintendent in addition to raising funds, building shelters, replacing dilapidated foot bridges, and holding reunions at Kanawha State Forest; and

Whereas, Elson Merrill Kuhn, died after a long illness, Tuesday, September 9, 2003, at Hubbard Hospice House in Charleston, West Virginia. He died at the age of 81, leaving behind a wife of 56 years, seven children, 11 grandchildren, eight great-grandchildren, two siblings and many nieces and nephews; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army SSG Elson M. Kuhn and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number: 20-060/00-028.94 (20A347), (38.22929, - 81.53375) locally known as 13th St. Overpass, carrying US 60 over CR 60/18 in Kanawha County, the “U. S. Army SSG Elson M. Kuhn Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying the bridge as the “U. S. Army SSG Elson M. Kuhn Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Canestraro, Fluharty, Zukoff, Storch, McGeehan, Diserio, Pethtel and Swartzmiller offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 108 - “Requesting the Division of Highways name that portion of WV Route 2 beginning at milepost 19.50 and ending

at milepost 19.53 in Marshall County the ‘U. S. Navy PO3 Heath “Scrappy” Shilling Memorial Road’.”

Whereas, U. S. Navy Petty Officer 3rd Class Heath “Scrappy” Shilling was born on December 13, 1979, in Glen Dale, West Virginia to Don and Rosa Shilling; and

Whereas, Petty Officer Shilling graduated from Moundsville’s John Marshall High School in 1998 where he ran track, played football and was a member of the pole-vaulting team. He also played American Legion baseball; and

Whereas, Petty Officer Shilling joined the U. S. Navy in August 1998. Following boot camp in Great Lakes, Illinois, he was stationed in Pensacola, Florida for training to become an aviation mechanic with a specialty in hydraulic systems. Petty Officer Shilling was initially assigned to Helicopter Squadron Four in Norfolk, Virginia, and was placed at the Aircraft Intermediate Maintenance Department. While there he was on the department’s baseball team and played numerous other Navy teams as well as teams from the other service branches; and

Whereas, Petty Officer Shilling was always going out of his way to help others. During an evening downpour in Virginia he came upon a fellow sailor whose truck had broken down. Petty Officer Shilling not only stopped to help, but after assessing the situation determined what was wrong, got the part and returned to repair the truck. Another time Petty Officer Shilling discovered an elderly couple alongside an interstate highway whose car had run out of gas. As he always carried a spare can of fuel, he was able to get them back on the road, and followed them to the nearest gas station to make sure they safely made it there; and

Whereas, Having already been selected as a Junior Sailor of the Quarter for the Norfolk Naval Air Station, Petty Officer Shilling was again in the running for that honor when, on July 15, 2001, as he was returning to his off-base apartment in Chesapeake, Virginia he died in a motorcycle accident. His body was interred on July 21, 2001, at the Riverview Cemetery in Moundsville with full military honors; and

Whereas, It is a fitting tribute to U. S. Navy Petty Officer 3rd Class Heath “Scrappy” Shilling that this stretch of road be named for him and his contribution to his country and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name that portion of WV Route 2 beginning at milepost 19.50 and ending at milepost 19.53 in Marshall County the “U. S. Navy PO3 Heath ‘Scrappy’ Shilling Memorial Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the “U. S. Navy PO3 Heath ‘Scrappy’ Shilling Memorial Road”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Byrd and Skaff offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 109 - “Requesting the Division of Highways name bridge number 20-060/00-013.32 (20A342), (38.36599, - 81.68053) locally known as CARBIDE OVERPASS, carrying U. S. 60 over CSX RR CARBIDE ENTRANCE in Kanawha County, the ‘U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge’.”

Whereas, Thomas Harry Honaker, Jr. was born in South Charleston, West Virginia in 1922 and graduated from South Charleston High School; and

Whereas, Thomas Harry Honaker, Jr. entered the United States Air Force in 1942 and trained in Texas before being deployed; and

Whereas, Airman Thomas Harry Honaker, Jr. became missing in action in the north Atlantic in April of 1943 and was later declared dead; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Airman Thomas Harry Honaker, Jr. and his sacrifice during World War II, and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number: 20-060/00-013.32 (20A342), (38.36599, -81.68053) locally known as CARBIDE OVERPASS, carrying U. S. 60 over CSX RR CARBIDE ENTRANCE in Kanawha County, the “U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Sponaugle, Hanshaw (Mr. Speaker) and Miley offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 110 - “Requesting the Division of Highways name the Moorefield Exit on Corridor H, U. S. Route 48, the ‘Speaker Clyde M. See, Jr. Exit’.”

Whereas, Clyde McNeill See, Jr. was born on October 20, 1941, in South Fork in Hardy County, West Virginia; and

Whereas, Clyde was the son of the late Clyde McNeill See, Sr., and Minnie Alice Crites See. Clyde’s father spent his entire life working as a farm hand and his mother worked as a school teacher until her untimely death when Clyde was a child, leaving his dad to raise Clyde and his sister Snow; and

Whereas, Clyde dropped out of Moorefield High School when he was 16 years old to join the U. S. Army. While stationed in Hawaii, Clyde completed the Army Ranger School on a dare by his executive officer. In addition, Clyde completed his GED while serving on active duty and he left the Army as a Corporal E-4; and

Whereas, Upon his return to West Virginia, Clyde used the G.I. Bill and attended his first year of college at Concord College, or as he referred to it U.C.L.A. - The University of Concord Located in Athens. Following his freshman year, Clyde transferred to West Virginia University and obtained his undergraduate degree in English in 1967. He went on to graduate from the West Virginia School of Law in 1970; and

Whereas, Following his graduation from law school, Clyde returned to Moorefield and for the next 47 years very proudly practiced law as a “country lawyer” while raising his family. For many of these years, Clyde served as a member of the Moorefield Volunteer Fire Department; and

Whereas, In 1974, Clyde was first elected to the West Virginia House of Delegates and began a rapid rise in the ranks of House leadership by becoming Vice-Chairman of the Judiciary Committee in his first term. During his second term, he was Majority Leader and in 1978 he was elected Speaker, a position he held for six years; and

Whereas, In 1984, Clyde ran for Governor of West Virginia, won the Democratic nomination for Governor, but fell short in the General Election, and then again ran for Governor in 1988, but once again fell short; and

Whereas, During his tenure in the West Virginia House of Delegates he became known for his quick wit, tell-it-like-it-is approach to dealing with members and lobbyists, being a stickler for proper use of the procedural rules of the Legislature, and a willingness to correct any wayward member on any rules transgression with clarity and firmness; and

Whereas, Clyde was also admired for and was singularly unique in his amazing storytelling and joke abilities, his contagious belly-rolling laugh, compassionate nature, which made him a joy to his friends and family and will never to be forgotten by those who knew him; and

Whereas, To this day, two of Clyde's jokes, one "that in the Legislature, fat possums travel late at night," and the other "that Delegates being elected to the Senate raises the IQ of both bodies" are still regularly invoked; and

Whereas, Although Clyde was often known for his brashness, he was also known as a tireless advocate for his county, with great love and a pure vision of the goodness of our state and its people, and he held in the highest esteem our system of government, and the important role of the Legislature in making our great state better for its citizens; and

Whereas, His innumerable contributions and dedication to the state and county he loved created a legacy for his family of a life well lived, done with gusto and compassion of which his children and grandchildren can cherish and always be proud; and

Whereas, Sadly, the Honorable Clyde McNeill See, Jr. passed away on Sunday, April 6, 2017 at home with his family by his side, leaving behind his four children, Jennifer, Joshua, Lucas and Amy, and his seven grandchildren, Jordan, Olivia, Shelby, Marin, Darah, Margo and Jackson; therefore, be it

Resolved by the House of Delegates:

That the Division of Highways is hereby requested to name the Moorefield Exit on Corridor H, U. S. Route 48, the "Speaker Clyde M. See, Jr. Exit"; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying the bridge as the "Speaker Clyde M. See, Jr. Exit"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of the Honorable Mr. Speaker, Clyde McNeill See, Jr.

And,

Delegate Fast offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 111 - “Requesting the Division of Highways name bridge number 10-077/00-061.20 (10A237), (37.98696, - 81.30559) locally known as Turnpike Bridge, carrying I-77, I-64 over Milburn Creek in Fayette County, the ‘U. S. Air Force Major Mary Lafferty Coll, D.O. Memorial Bridge’.”

Whereas, Mary Lafferty Coll was born March 8, 1969, in Raleigh County to Billie B. and Mary Ellen Lafferty and was reared in Fayette County by a second-generation coal mining family; and

Whereas, Mary Lafferty Coll won the Golden Horseshoe Award in middle school; and

Whereas, She served in the U. S. Air Force until she was given an honorable medical discharge for a heart condition; and

Whereas, Despite being a battered and single mother of two children, she worked to put herself through college and graduated pre-med from the College of West Virginia and graduated as a Doctor of Osteopathy from the West Virginia School of Osteopathic Medicine; and

Whereas, She became a family practice doctor; and

Whereas, Mary Lafferty Coll died January 7, 2015, and was buried in the Willis Branch Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Air Force Major Mary Lafferty Coll and her contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 10-077/00-061.20 (10A237), (37.98696, - 81.30559) locally known as Turnpike Bridge, carrying I-77, I-64 over Milburn Creek in Fayette County, the “U. S. Air Force Major Mary Lafferty Coll Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Air Force Major Mary Lafferty Coll Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

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

H. B. 4972 - “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, Energy Assistance, fund 8755, fiscal year 2020, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; to the Committee on Finance.

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

H. B. 4973 - “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2020,

organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; to the Committee on Finance.

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

H. B. 4974 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2020, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for H. B. 2088, Relating to admissibility of certain evidence in a civil action for damages; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 305**), and there were—yeas 45, nays 54, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Atkinson, Azinger, Barnhart, Bibby, Capito, Cooper, Criss, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Hartman, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, Kessinger, Linville, Mandt, C. Martin, P. Martin, McGeehan, Nelson, Pack, Pethtel, Phillips, Porterfield, Queen, Rohrbach, Rowan, Shott, Staggers, Storch, Summers, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cowles.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2088) rejected.

Com. Sub. for H. B. 2149, Relating to the Farm-To-Food Bank Tax Credit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 306**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2149) passed.

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

Com. Sub. for H. B. 2646, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 307**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, J. Jeffries, Kump, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2646) passed.

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

Com. Sub. for H. B. 4019, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 308**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, S. Brown, Diserio, Doyle, Fleischauer, Fluharty, Hansen, Lavender-Bowe, Pushkin, Pyles, Rowe and Walker.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4019) passed.

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

H. B. 4354, Adding nabiximols to the permitted list of distributed and prescribed drugs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 309**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cowles and Householder.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4354) passed.

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

H. B. 4354 - “A Bill to amend and reenact §60A-2-201 of the Code of West Virginia, 1931, as amended, relating to drugs; and providing that the sale, wholesale, distribution or prescribing of nabiximol in a product approved by the Food and Drug Administration is permitted and shall be placed on the schedules of controlled substances or descheduled as provided for by the Drug Enforcement Administration.”

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

Com. Sub. for H. B. 4360, Exempting certain persons from heating, ventilating, and cooling system licensing requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 310**), and there were—yeas 63, nays 35, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Lovejoy, Miller, Paynter, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cadle and Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4360) passed.

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

Com. Sub. for H. B. 4377, The Protection of Vulnerable Adults from Financial Exploitation Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 311**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan and Wilson.

Absent and Not Voting: Cadle, Cowles and Miley.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4377) passed.

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

H. B. 4396, Relating to reporting suspected governmental fraud; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 312**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Cowles and Foster.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4396) passed.

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

H. B. 4409, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 313**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4409) passed.

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

Com. Sub. for H. B. 4421, Natural Gas Liquids Economic Development Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 314**), and there were—yeas 85, nays 14, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, S. Brown, Doyle, Estep-Burton, Fleischauer, Hansen, Hicks, Pushkin, Rowe, Sponaugle, Staggers, R. Thompson, Walker and Williams.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4421) passed.

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

Com. Sub. for H. B. 4433, Relating to deeds of trust; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 315**), and there were—yeas 80, nays 19, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, S. Brown, Doyle, Fast, Fleischauer, Fluharty, Hansen, Hicks, Miller, Pushkin, Pyles, Robinson, Rodighiero, Rowe, C. Thompson, R. Thompson, Tomblin, Walker and Williams.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4433) passed.

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

H. B. 4447, Creating the shared table initiative for senior citizens who suffer from food insecurity; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 316**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4447) passed.

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

Com. Sub. for H. B. 4464, Relating to driving privileges and requirements for persons under the age of 18; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 317**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Higginbotham and Summers.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4464) passed.

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

H. B. 4606, Listing contractor classifications on a contractor license; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 318**), and there were—yeas 73, nays 26, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, N. Brown, S. Brown, Byrd, Canestraro, Caputo, Diserio, Doyle, Fleischauer, Fluharty, Hornbuckle, Lavender-Bowe, Lovejoy, Paynter, Pyles, Robinson,

Rohrbach, Rowe, Skaff, Sponaugle, Storch, R. Thompson, Walker, Williams and Zukoff.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4606) passed.

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

H. B. 4715, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 319**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Little.

Absent and Not Voting: Cowles, Diserio and Steele.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4715) passed.

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

H. B. 4760, Modifying video lottery retailer licensing eligibility requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 320**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Fast, Porterfield and Toney.

Absent and Not Voting: Cowles and Steele.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4760) passed.

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

Com. Sub. for H. B. 4780, Permitting county boards to offer elective courses of instruction on the Bible; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 321**), and there were—yeas 73, nays 26, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, S. Brown, Byrd, Canestraro, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hartman, Hill, Hornbuckle, Lovejoy, Miley, Nelson, Pushkin, Pyles, Robinson, Rowe, Skaff, Storch, C. Thompson, Walker and Williams.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4780) passed.

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

H. B. 4797, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 322**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby, S. Brown, Porterfield, Robinson, Waxman and Wilson.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4797) passed.

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

Com. Sub. for H. B. 4803, Relating to certification of electrical inspectors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 323**), and there were—yeas 57, nays 42, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4803) passed.

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

Com. Sub. for H. B. 4823, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 324**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4823) passed.

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

Com. Sub. for H. B. 4853, Relating to a customer constructing a connection or other infrastructure necessary for the customer to connect to the public utility; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 325**), and there were—yeas 60, nays 39, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miller, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Westfall, Williams and Zukoff.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4853) passed.

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

H. B. 4859, Accounting for state funds distributed to volunteer and part-volunteer fire companies and departments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 326**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4859) passed.

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

H. B. 4872, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse; on third reading, coming up in regular order, was read a third time.

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

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4872) passed.

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

H. B. 4882, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 328**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Butler, Fast, Hanna, D. Jeffries, Jennings, J. Kelly, Kump, C. Martin, P. Martin, Pack, Porterfield, Rohrbach, Rowan, Sypolt, Toney and Worrell.

Absent and Not Voting: Cowles and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4882) passed.

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

Com. Sub. for H. B. 4886, Requiring the PSC and the DOH to submit reports concerning activity on the Coal Resource Transportation Road System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cadle, Paynter and Wilson.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4886) passed.

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

H. B. 4887, Relating to revocation, cancellation, or suspension of business registration certificates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Paynter and Steele.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4887) passed.

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

H. B. 4959, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan and Wilson.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4959) passed.

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

H. B. 4960, Relating to exempting from licensure as an electrician; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Maynard, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Skaff, Sponaugle, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams, Worrell and Zukoff.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4960) passed.

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

At 2:38 p.m., the House of Delegates recessed until 2:50 p.m.

* * * * *

Afternoon Session

* * * * *

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

Special Calendar

-continued-

Second Reading

Com. Sub. for S. B. 554, Relating to termination, expiration, or cancellation of oil or natural gas leases; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Energy, was reported by the Clerk and adopted, amending the bill on page two, section nine-b, line thirty-two, by striking out the word “minerals” and inserting in lieu thereof the words “oil and natural gas”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 571, Expiring funds from State Excess Lottery Revenue Fund to various accounts; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section one, line eighteen, by striking out the number “2” and inserting in lieu thereof the number “3”.

On page two, section one, line nineteen, by striking out

“4 Public Defender Corporations
– Surplus XXXXX 300,000” in its entirety.

On page two, section one, line twenty, by striking out the number “5” and inserting in lieu thereof the number “6”.

And,

On page two, section one, line twenty, by striking out the number “19,492,998” and inserting in lieu thereof the number “19,792,998”.

The bill was then ordered to third reading.

S. B. 725, Supplemental appropriation to various Department of Education accounts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 778, Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 779, Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans’ Assistance; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 780, Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2478, Modifying the Fair Trade Practices Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2897, Relating to driving restrictions in school zones; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4159, Relating to the manufacture and sale of hard cider; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 19. AGRICULTURE.

ARTICLE 2. MARKETING AGRICULTURAL PRODUCTS.

§19-2-12. Agriculture Development Fund; administration; purpose; funding.

(a) There is hereby created in the State Treasury a special revenue account to be known as the Agriculture Development Fund. The fund shall be administered by the Department of Agriculture. The fund shall consist of all moneys deposited into the fund pursuant to §60-8A-3 of this code; any moneys that may be designated for deposit in this fund by an act of the Legislature; any moneys appropriated and designated for the fund by the Legislature; any moneys able to be transferred into the fund by authority of the commissioner from other funds; and gifts, donations, and interest or other returns earned from investment of the fund.

(b) Expenditures from the fund shall be for the purpose of fostering and supporting the development of agricultural sectors, such as hard cider, within the state, and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund, but shall remain in the fund and be expended as provided by this section.

§19-2-13. Hard cider development program; purpose; funding.

The commissioner shall establish a program to foster the development and growth of the hard cider industry in the state. The purpose of the program shall be to assist in the development of fruit inputs necessary for the production of hard cider in the state. The

program shall be funded using moneys deposited within the Agriculture Development Fund created pursuant to §19-2-12 of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5a. Farm wineries defined.

(a) For the purpose of this chapter ‘Farm winery’ means an establishment where in any year 50,000 gallons or less of wine, which includes hard cider, and nonfortified dessert wine are manufactured exclusively by natural fermentation from grapes, apples, pears, peaches, other fruits or honey, or other agricultural products containing sugar and where port, sherry and Madeira wine may also be manufactured, with 25 percent of such raw products being produced by the owner of such farm winery on the premises of that establishment and no more than 25 percent of such produce originating from any source outside this state. Any port, sherry or Madeira wine manufactured by a winery or a farm winery must not exceed an alcoholic content of 22 percent alcohol by volume and shall be matured in wooden barrels or casks.

(b) Notwithstanding the provisions of subsection (a) of this section, a farm winery may include one off-farm location. The owner of a farm winery may provide to the commissioner evidence, accompanied by written findings by the West Virginia Agriculture Commissioner in support thereof, that the owner has planted on the premises of the farm winery young nonbearing fruit plants. The commissioner may grant permission for one off-farm location in an amount equal to that reasonably expected to be produced when the nonbearing fruit plants planted on the farm winery come into full production. The length of time of the permission to use an off-farm location shall be determined by the commissioner after consultation with the Agriculture Commissioner.

ARTICLE 8. SALE OF WINES

§60-8-2. Definitions.

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

‘Commissioner’ or ‘commission’ means the West Virginia Alcohol Beverage Control Commissioner.

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

‘Fortified wine’ means any wine to which brandy or other alcohol has been added where the alcohol content by volume does not exceed 24 percent, and shall include nonfortified dessert wines ~~which are not fortified having~~ where an the alcohol content by volume of at least 14.1 percent and not exceeding sixteen is greater than 17 percent and does not exceed 24 percent.

‘Grocery store’ means any retail establishment, commonly known as a grocery store, supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of wine) of not less than \$3,000. The term ‘grocery store’ shall also include and mean a separate and segregated portion of any other retail store

which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises with average monthly sales with respect to such separate or segregated portion (exclusive of sales of wine) of not less than \$3,000 and an average monthly inventory (exclusive of inventory of wine) of not less than \$3,000.

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

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

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

‘Nonfortified dessert wine’ means a wine that is a dessert wine to which brandy or other alcohol has not been added, and which

has an alcohol content by volume of at least 14.1 percent and less than or equal to 17 percent.

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

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

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

‘Private wine spa’ means any business with the sole purpose of providing commercial facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and relaxation,

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

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

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

‘Table wine’ means a wine with an alcohol content by volume between 0.5 percent and 14 percent.

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

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

‘Varietal wine’ means any wine labeled according to the grape variety from which such wine is made.

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

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

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

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

(a) No person may engage in business in the capacity of a winery, farm winery, supplier, distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or wine specialty shop without first obtaining a license from the commissioner, nor shall a person continue to engage in any activity after his or her license has expired, been suspended, or revoked. No person may be licensed simultaneously as a distributor and a retailer. No person, except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No person may be licensed simultaneously as a supplier and a private wine bed and breakfast, private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a distributor and a private wine

bed and breakfast, a private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a retailer and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. Any person who is licensed to engage in any business concerning the manufacture, sale, or distribution of wine may also engage in the manufacture, sale, or distribution of hard cider without obtaining a separate hard cider license.

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

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

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

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

(4) Two hundred fifty dollars per year for a wine specialty shop license, in addition to any other licensing fees paid by a winery or retailer holding a license. Except for the amount of the license fee and the restriction to sales of winery or farm winery wines, a winery, or farm winery acting as a wine specialty shop retailer is subject to all other provisions of this article which are applicable to a wine specialty shop retailer as defined in §60-8-2 of this code;

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

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

(7) Two hundred fifty dollars per year for a private wine restaurant license. Each separate restaurant from which a licensee sells wine shall be separately licensed and there shall be collected

with respect to each location the annual license fee of \$250 as provided in this subdivision;

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

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

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

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

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

(13) Two hundred fifty dollars per year for a hard cider distributor's license and each separate warehouse or other facility from which a distributor sells, transfers, or delivers hard cider shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision.

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

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

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

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

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

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

be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the festival or fair.

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

(3) A licensed winery or a farm winery, which has the festival or fair licensee's written authorization and approval from the commissioner, may, in addition to or in conjunction with the festival and fair licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed three, two-fluid ounce, tastings or samples per patron, for consumption on the premises during the operation of a festival or fair only; and may sell wine for off-premises consumption only: *Provided*, That for licensed wineries or farm wineries at a licensed festival or fair the tastings, samples and off-premises sales shall occur under the hours of operation as required in this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and 10:00 a.m.

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

serve complimentary samples of wine in moderate quantities for tasting. A wine club may not make wine purchases from a direct shipper where the wine may be consumed on the licensed premises of any Class A private wine retail license or private club. A wine club which violates the provisions of this subdivision is subject to the penalties in this article.

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

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

(i)(1) The commissioner may issue a special license for the retail sale of wine in a professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine, for consumption in a professional baseball stadium. For the purpose of this subsection, 'professional baseball stadium' means a facility constructed primarily for the use of a major or minor league baseball franchisee affiliated with the National Association of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league baseball park. Any special license issued pursuant to this subsection shall be for a term beginning on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of

the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the professional baseball stadium. The special license may be issued in the name of the baseball franchisee or the name of the primary food and beverage vendor under contract with the baseball franchisee. These sales must take place within the confines of the professional baseball stadium. The exterior of the area where wine sales may occur must be surrounded by a fence or other barrier prohibiting entry except upon the franchisee's express permission, and under the conditions and restrictions established by the franchisee, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as the circumstances of each professional baseball stadium may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances may §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted concerning those subsections.

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

(j) A license to sell wine granted to a private wine bed and breakfast, private wine restaurant, private wine spa, or a private club under the provisions of this article entitles the operator to sell and serve wine, for consumption on the premises of the licensee, when the sale accompanies the serving of food or a meal to its members and their guests in accordance with the provisions of this article: *Provided*, That a licensed private wine bed and breakfast, private wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to purchase wine, consume

wine, and recork or reseal, using a tamper resistant cork or seal, up to two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its members and their guests in accordance with the provisions of this article and in accordance with rules promulgated by the commissioner for the purpose of consumption of said wine off premises: *Provided, however*, That for this article, food or a meal provided by the private licensee means that the total food purchase, excluding beverage purchases, taxes, gratuity, or other fees is at least \$15: *Provided further*, That a licensed private wine restaurant or a private club may offer for sale, for consumption off the premises, sealed bottles of wine to its customers provided that no more than one bottle is sold per each person over 21 years of age, as verified by the private wine restaurant or private club, for consumption off the premises. Such licensees are authorized to keep and maintain on their premises a supply of wine in quantities appropriate for the conduct of operations thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this code. A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code.

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

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

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

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

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

(p) The commissioner may issue special one-day licenses to duly organized, nonprofit corporations and associations allowing the sale and serving of wine, and may, if applicable, also allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only, when raising money for athletic, charitable, educational, or religious purposes. "Auction or auctioning", for the purposes of this subsection, means any silent, physical act, or verbal bid auction, whether or not such auction requires in-presence bidding or online Internet-based electronic bidding through a secure application or website, but shall not include any action in violation of §47-20-10, §47-20-11, or §61-10-1 *et seq.* of this code. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during these events may be donated by, or purchased from, a licensed retailer, a distributor, winery, or a farm winery. A licensed winery or farm winery which is authorized in writing by a

representative of the duly organized, nonprofit corporation and association which has obtained the one-day license; is in good standing with the state; and obtains the commissioner's approval prior to the one-day license event may, in conjunction with the one-day licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed of three, two-fluid ounce tastings or samples per patron, for consumption on the premises during the operation of the one-day license event; and may sell certain sealed wine bottles manufactured by the licensed winery or farm winery for off-premises consumption: *Provided*, That for a licensed winery or farm winery at a licensed one-day event, the tastings, samples and off-premises sales shall occur under the hours of operation as required in this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and 10:00 a.m., from the one-day licensee's submitted floor plan for the event subject to the requirements in the code and rules. Under no circumstances may the provisions of §60-8-20(c) or §60-8-20(f) of this code be waived nor may any exception be granted with respect to those subsections. No more than six licenses may be issued to any single licensee during any calendar year.

(q) The commissioner may issue special licenses to heritage fairs and festivals allowing the sale, serving, and sampling of wine from a licensed farm winery. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during these events may be donated by or purchased from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this code be waived nor may any exception be granted with respect thereto. The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this subsection.

(r)(1) The commissioner may issue a special license for the retail sale of wine in a college stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine for consumption in a college stadium. For the purpose of this subsection, 'college stadium' means a facility constructed primarily for the use of a Division I, II, or III college that is a

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

(2) A license issued under this subsection and the licensee are subject to the other requirements of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as the circumstances of each the college stadium may require, including, without limitation, the right to revoke or immediately suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided, however*, That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any exception be granted concerning those subsections.

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

§60-8-4. Liter tax.

There is hereby levied and imposed on all wine sold after July 1, 2007, by suppliers to distributors, and including all wine sold and sent to West Virginia adult residents from direct shippers, except wine sold to the commissioner, a tax of twenty-six and four hundred six-thousandths cents per liter. Effective July 1, 2020, hard cider is excepted from this per liter tax and is taxed pursuant to §60-8A-3 of this code.

Before the 16th day of each month thereafter, every supplier, distributor and direct shipper shall make a written report under oath to the Tax Commissioner and the commissioner showing the identity of the purchaser, the quantity, label and alcoholic content of wine sold by the supplier to West Virginia distributors or the direct shipper to West Virginia adult residents during the preceding month and at the same time shall pay the tax imposed by this article on the wine sold to the distributor or the West Virginia adult residents during the preceding month to the Tax Commissioner.

The reports shall contain other information and be in the form the Tax Commissioner may require. For purposes of this article, the reports required by this section shall be considered tax returns covered by the provisions of §11-10-1 *et seq.* of this code. Failure to timely file the tax returns within five calendar days of the 16th day of each month will also subject a supplier, distributor and direct shipper to penalties under §60-8-18 of this code.

No wine imported, sold or distributed in this state or sold and shipped to this state by a direct shipper shall be subject to more than one liter tax.

§60-8-18. Revocation, suspension, and other sanctions which may be imposed by the commissioner upon the licensee; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions, or denies the issuance or renewal of any license issued under this article

(a) The commissioner may on his or her own motion, or shall on the sworn complaint of any person, conduct an investigation to determine if any provisions of this article or any rule promulgated

or any order issued by the commissioner has been violated by any licensee. After investigation, the commissioner may impose penalties and sanctions as set forth below.

(1) If the commissioner finds that the licensee has violated any provision of this article or any rule promulgated or order issued by the commissioner, or if the commissioner finds the existence of any ground on which a license could have been refused, if the licensee were then applying for a license, the commissioner may:

(A) Revoke the licensee's license;

(B) Suspend the licensee's license for a period determined by the commissioner not to exceed 12 months; or

(C) Place the licensee on probation for a period not to exceed 12 months; and

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

(2) If the commissioner finds that a licensee has willfully violated any provision of this article or any rule promulgated or any order issued by the commissioner, the commissioner shall revoke the licensee's license.

~~(b) If a supplier or distributor fails or refuses to keep in effect the bond required by section twenty nine of this article, the commissioner shall automatically suspend the supplier or distributor's license until the bond required by section twenty of this article is furnished to the commissioner, at which time the commissioner shall vacate the suspension~~

~~(e)~~ (b) Whenever the commissioner refuses to issue a license, or suspends or revokes a license, places a licensee on probation, or imposes a monetary penalty, he or she shall enter an order to that effect and cause a copy of the order to be served in person or by certified mail, return receipt requested, on the licensee or applicant.

~~(d)~~ (c) An applicant or licensee, as the case may be, adversely affected by the order has a right to a hearing before the

commissioner if a written demand for hearing is served upon the commissioner within 10 days following the receipt of the commissioner's order by the applicant or licensee. Timely service of a demand for a hearing upon the commissioner operates to suspend the execution of the order with respect to which a hearing has been demanded, except an order suspending a license under the provisions of ~~subsection (b) of this section~~ §60-8-29 of this code. The person demanding a hearing shall give security for the cost of the hearing in a form and amount as the commissioner may reasonably require. If the person demanding the hearing does not substantially prevail in the hearing or upon judicial review thereof as provided in subsections ~~(g) and (h)~~ (f) and (g) of this section, then the costs of the hearing shall be assessed against him or her by the commissioner and may be collected by an action at law or other proper remedy.

~~(e)~~ (d) Upon receipt of a timely served written demand for a hearing, the commissioner shall immediately set a date for the hearing and notify the person demanding the hearing of the date, time, and place of the hearing, which shall be held within 30 days after receipt of the demand. At the hearing the commissioner shall hear evidence and thereafter enter an order supporting by findings of facts, affirming, modifying, or vacating the order. Any such order is final unless vacated or modified upon judicial review thereof.

~~(f)~~ (e) The hearing and the administrative procedure prior to, during, and following the hearing shall be governed by and in accordance with the provisions of §29A-5-1 *et seq.* of this code.

~~(g)~~ (f) Notwithstanding the provisions of §29A-5-4(b) of this code, an applicant or licensee adversely affected by a final order entered following a hearing has the right of judicial review of the order code in the Circuit Court of Kanawha County or the circuit court in the county where the proposed or licensed premises is located and will or does conduct sales: *Provided*, That in all other respects, such review shall be conducted in the manner provided in chapter 29A of this code. The petition for the review must be filed with the circuit court within 30 days following entry of the final order issued by the commissioner. An applicant or licensee

obtaining judicial review is required to pay the costs and fees incident to transcribing, certifying, and transmitting the records pertaining to the matter to circuit court.

(h) (g) The judgment of the circuit court reviewing the order of the commissioner is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of §29A-6-1 of this code.

(i) (h) Legal counsel and services for the commissioner in all proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the Attorney General or his or her assistants and in any proceedings in any circuit court by the prosecuting attorney of that county as well, all without additional compensation.

§60-8-29. Bond—Affidavit of compliance required of distributors and suppliers.

Each applicant for a distributor's license or a supplier's license shall furnish at the time of application ~~a bond with a corporate surety authorized to transact business in this state, payable to the state, and conditioned on the payment of all taxes and fees herein prescribed and on the faithful performance of and compliance with the provisions of this article. The penal sum of the bond for distributors shall be \$10,000 and the penal sum of the bond for suppliers shall be \$10,000. Each distributor shall be required to furnish separate bond for each location or separate place of business from which wine is distributed, sold or delivered. Revocation or forfeiture of the bond furnished for any such location may, in the discretion of the commissioner, cause the revocation or forfeiture of all such bonds furnished by the distributor suffering such revocation or forfeiture~~ an affidavit of compliance with federal and state laws regarding tied house laws, trade practice requirements, and furnishing things of value requirements set forth in the code and the rules. Further, licensed distributors and suppliers who fail to pay their taxes to the Tax Commissioner or who are not otherwise in good standing with the state and its agencies shall be suspended upon 10 days' written notice by the commissioner. If the payment of taxes or good standing is not

completed in 30 days from the date of suspension of the licensee's license, then the licensee's license shall be revoked pursuant to the requirements of this article as it is a privilege to hold a license.

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.

§60-8A-1. Definition of Hard Cider.

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

§60-8A-2. Applicability of other laws and licenses.

(a) Except as stated in this article, all wine licenses and other wine requirements set forth in §60-8-1 et seq., §60-4-3b, and §60-6-2, of this code, shall apply to the manufacture, distribution, or sale of hard cider. Any person or licensee legally authorized to manufacture, distribute, or sell wine may manufacture, distribute, or sell hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license or legal right authorizes him or her to manufacture, distribute, or sell wine. No additional wine license fees shall be charged for the privilege of manufacturing, distributing, or selling hard cider.

(b) Except as stated in this article, all hard cider distributors are bound by all wine requirements set forth in §60-8-1 et seq., §60-4-3b, and §60-6-2, of this code which shall apply to distribution of hard cider. Any person or licensee legally authorized to distribute hard cider may distribute hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as a license or legal right would authorize him or her to distribute wine. No additional hard cider license fees shall be charged for the privilege of distributing hard cider.

§60-8A-3. Taxation; reporting; deposits into Agriculture Development Fund; penalties for failure to file returns.

(a) There is hereby levied and imposed on all hard cider sold on and after July 1, 2020, by wineries, farm wineries, and suppliers to distributors, and including all hard cider sold and sent to West Virginia adult residents from direct shippers, a tax of 22 and six-tenths cents per gallon, in like ratio for any partial gallon or other unit of measure: *Provided*, That wineries, farm wineries, and suppliers eligible for federal tax credits in 26 U.S.C. 5041(c)(1) shall be eligible for such credits in this state. Hard cider is exempt from the liter tax established under §60-8-4 of this code.

(b) All taxes for hard cider collected pursuant to this section shall be deposited in the Agriculture Development Fund established by §19-2-12 of this code.

(c) Before the 16th day of each month thereafter, every winery, farm winery, and supplier, distributor and direct shipper shall make a written report under oath to the Tax Commissioner and the commissioner showing the identity of the purchaser, the quantity, label and alcoholic content of hard cider sold by the winery, farm winery, and supplier to West Virginia distributors or the direct shipper to West Virginia adult residents during the preceding month and at the same time shall pay the tax imposed by this article on the hard cider sold to the distributor or the West Virginia adult residents during the preceding month to the Tax Commissioner.

The reports shall contain other information and be in the form the Tax Commissioner may require. For purposes of this article, the reports required by this section shall be considered tax returns covered by the provisions of §11-10-1 *et seq.* of this code. Failure to timely file the tax returns within five calendar days of the 16th day of each month will also subject a winery, farm winery, supplier, distributor and direct shipper to penalties under §60-8-18 of this code.

(d) No hard cider imported, sold or distributed in this state or sold and shipped to this state by a direct shipper shall be subject to more than one per-gallon tax on hard cider.

§60-8A-4. Fruit sources; phase in; applications.

(a) On and after July 1, 2020, pursuant to §60-3-25 of this code, any farm winery attempting to manufacture hard cider may submit an application to the Agriculture Commissioner with a copy to the commissioner showing its inability to obtain from within this state 75 percent of the apples, pears, peaches, honey, or other fruits necessary to produce its hard cider. The Agriculture Commissioner may issue to the applicant a permit to import such fruit, honey, or fruit juice concentrate in an amount deemed necessary by the Agriculture Commissioner to allow such farm winery to produce hard cider within the percentage established by §60-1-5a of this code.

(b) The burden of proof shall be upon the applicant to show that apples, pears, peaches, honey, or other fruits, of the type normally used by the licensee are not available from any other source within the State of West Virginia, and no application for a permit under this section shall be considered by the commissioner unless it is accompanied by written findings by the Agriculture Commissioner in support thereof.

(c) Notwithstanding any provision in §60-3-25 of this code to the contrary, any permit issued under this section shall be effective for a period of up to five years: *Provided*, That the applicant files an annual statement of necessity, supported by written findings from the Agriculture Commissioner, with the commissioner. After the five-year permit issued pursuant to this section has expired, any subsequent application for a permit shall be submitted pursuant to §60-3-25 of this code.

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

(a) *Sales of hard cider.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer hard cider manufactured by the licensed winery or farm winery for retail sale to customers from the winery's or farm winery's licensed premises

for consumption off of the licensed premises only in approved and registered kegs, bottles, cans, or growlers for personal consumption and not for resale. A licensed winery or farm winery may not sell, give or furnish hard cider for consumption on the premises of the principal place of business or manufacturing facility located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (b) of this section. “Growler” means a container or jug that is made of glass, ceramic, metal, or other approved material, that may be no larger than 128 fluid ounces in size and must be capable of being securely sealed as approved by the commissioner.

(b) *Complimentary samples.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer only complimentary samples of hard cider manufactured at the winery’s or farm winery’s principal place of business or manufacturing facility located in the State of West Virginia. The complimentary samples may be no greater than two fluid ounces per sample per patron, and a sampling shall not exceed six complimentary two-fluid ounce samples per patron per day. A licensed winery or farm winery providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated.

(c) *Retail sales.* — Every licensed winery or farm winery under this section shall comply with all the provisions as applicable to wine retailers when conducting sales of hard cider and shall be subject to all applicable requirements and penalties.

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

(e) *Advertising.* — A licensed winery or farm winery may advertise a particular brand or brands of hard cider produced by the

licensed winery or farm winery and the price of the hard cider subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

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

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

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

(i) *Fee.* — There is no additional fee for a licensed winery or farm winery authorized under this section to sell growlers.

(j) *Limitations on licensees.* — To be authorized under this section, a licensed winery or farm winery may not produce more than 25,000 barrels per calendar year at the winery’s or farm winery’s principal place of business or manufacturing facility located in the State of West Virginia. A licensed winery or farm winery under this section may only conduct tours, give complimentary samples and sell growlers during the hours of operation defined for retailers. A licensed winery or farm winery authorized under this section shall be subject to applicable penalties.

(k) *Rules.* — The West Virginia Alcoholic Beverage Control Commissioner, in consultation with the Bureau for Public Health concerning sanitation, is authorized to propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8A-6. Wine licensee’s authority to sell growlers; complementary samples; requirements; advertisements; taxation; and fees.

(a) *Sales of hard cider.* — A wine retailer, private wine restaurant, private club, or wine specialty shop, who pays the fee in subsection (h) of this section may offer only hard cider for retail sale to patrons from their licensed premises in a sealed growler for personal consumption off the licensed premises and not for resale. Prior to the sale, the licensee shall verify, using proper identification, that any patron purchasing hard cider is 21 years of age or over and that the patron is not visibly intoxicated. A licensee authorized under this section may not sell, give, or furnish other alcoholic liquors, including other types of wine, unless it is a private club licensed to sell sealed wine for consumption off of the licensed premises and meets the requirements set out in §60-8-3(j) and §60-8-3(l) of this code, for the sale of wine, not liquor. “Growler” means a container or jug that is made of glass, ceramic, metal, or other approved material, that may be no larger than 128 fluid ounces in size and must be capable of being securely sealed as approved by the commissioner.

(b) Retail sales. — Every licensee authorized under this section shall comply with all provisions applicable to retailers when conducting sales of hard cider and shall be subject to all applicable requirements and penalties.

(c) Payment of taxes and fees. — A licensee authorized under this section shall pay all taxes and fees required of retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by law and by rule of the commissioner.

(d) Advertising. — A licensee authorized under this section may advertise a particular brand or brands of hard cider and the price of the hard cider subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

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

(f) Growler labeling. — A licensee authorized under this section selling growlers shall affix a conspicuous label on all sold and securely sealed growlers listing the name of the licensee selling the growler, the brand of the hard cider in the growler, the alcohol content by volume of the hard cider in the growler, and the date the growler was filled or refilled, and, further, all labeling on the growler shall be consistent with all federal labeling and warning requirements.

(g) Growler sanitation. — A licensee authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior

to its sealing. In addition, the licensee shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties including under §60-8-18 of this code.

(h) *Fees.* — Commencing July 1, 2020, and every July 1 thereafter, there is an annual \$100 nonrefundable fee for a licensee to sell hard cider growlers as provided by this section. The licensee must be in good standing with the state at the time of paying the fee.

(i) *Complimentary samples.* — A licensee authorized under this section may provide hard cider complimentary samples which may be no greater than two fluid ounces per sample and a sampling shall not exceed six different two-fluid ounce samples per patron per day. A licensee authorized under this section providing complimentary samples shall, prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated. Hard cider utilized for sampling purposes must be purchased from the licensee's inventory.

(j) *Limitations on licensees.* — A licensee under this section may only sell growlers during the hours of operation set forth in §60-8-34 of this code. Any licensee authorized under this section must maintain a secure area for the sale of hard cider in a growler. The secure area must only be accessible by the licensee. Any licensee authorized under this section shall be subject to the applicable penalties under the code.

(k) *Nonapplicability of certain statutes.* — Notwithstanding any other provision of this code to the contrary, licensees under this section are permitted to break the seal of the original container for the limited purpose of filling a growler or providing complimentary samples as provided in this section. Any unauthorized sale of hard cider or any consumption not permitted on the licensee's premises is subject to applicable penalties under this code.

(l) The West Virginia Alcoholic Beverage Control Commissioner, in consultation with the Bureau for Public Health concerning sanitation, is authorized to propose rules for legislative approval, pursuant to §29A-3-1 et seq. of this code, to implement this section.

§60-8A-7. Rule-making authorization.

The West Virginia Alcoholic Beverage Control Commissioner is authorized to propose rules for legislative approval, pursuant to §29A-3-1 et seq. of this code, to implement this article.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4176, West Virginia Intelligence/Fusion Center Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Steele and Miller, the bill was amended on page one, line eight, after “*Provided*”, by striking out the following: “That under no circumstances shall any private sector persons, organizations, entities, or agencies utilizing or collaborating with the Fusion Center be a contract operator for any federal intelligence agency.”, and inserting in lieu thereof the following: “That the Fusion Center shall not knowingly allow a contractor for a federal intelligence agency work inside of the Fusion Center.”

On page one, line eighteen, after the word, “transnational”, by inserting the words, “or domestic”.

On page two, line twenty-two, after “States,” by striking out the following, “including but not limited to, 50 U.S.C. §3036(d) and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008));”

On page three, line twelve, after the word “§3036(d)”, by inserting a period and striking out the following, “and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008)).”

One page three, line twenty-seven, following the word “*Provided*”, by striking out the following: “That under no circumstances shall any private sector persons, organizations, entities, or agencies utilizing or collaborating with the Fusion Center be a contract operator for any federal intelligence agency.”, and inserting in lieu thereof the following:

“That the fusion center shall not knowingly allow a contractor for a federal intelligence agency work inside of the Fusion Center.”

On page four, line forty-four, after the word “States,” by striking out the words “including but not limited to, 50,”.

On page four, line forty-five, after “3036(d)”, by striking out the words “and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008) (2008))”;

On page four, line sixty-two, after the word “3036(d)”, by striking out the words “and Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008))”.

On page five, line seventy-nine, after the word “3036(d)”, by striking out the words “and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008))”.

On page six, line one hundred and four, after the word “counsel”, by inserting the words “and staff”.

On page six, line one hundred and eight, by striking out the word “commission”, and inserting in lieu thereof the word “committee”.

On page six, line one-hundred and eleven, after the word “members”, by inserting the words “counsel, and staff”.

On page six, line one hundred and fourteen, after the word “members”, by inserting the words “counsel, and staff”.

On page seven, line one-hundred and eighteen, after the word “time,” by inserting the words “during normal business hours”.

On page seven, line one-hundred and eighteen, after the word “counsel,” by inserting the words “and staff”.

On page eight, line one hundred and fifty, after the word “That”, by striking out the word “is”, and insert in lieu thereof the word “if”.

On page eight, line one hundred and fifty, after the word “classified”, by inserting a comma and the words “or security, or law enforcement sensitive that would compromise an investigation”.

On page ten, line thirty-six, after the word “3036(d)”, by striking out the word “and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008))”.

On page eleven, line fifty-three, after the word “3036(d)”, by striking out the words “and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008))”.

On page twelve, line seventy, after the word “3036(d)”, by striking out the words “and Executive Order 12333 (December 4, 1981, as amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008))”.

On page twelve, line six, after the word “*Provided,*” by striking out the language “That with regard to any Fusion Center intelligence gathering activity or operation against a U. S. citizen related to alleged terrorism, such allegation must be vetted and confirmed by procedures substantially in compliance with those set forth in the Federal Bureau of Investigation memorandum dated April 5, 2001 by Michael J. Woods of the Office of General Counsel titled “Foreign Intelligence Surveillance Act Procedures to Ensure Accuracy.”; and by inserting in lieu thereof the following language, “That with regard to any Fusion Center intelligence or information gathering activity or operation against a U. S. Citizen

related to alleged terrorism or violation of a law, such allegation must be vetted and confirmed by procedures substantially in compliance with those set forth in laws, rules, and regulations, developed in accordance with 50 U.S.C. §3036(d).”

Delegates Bibby, Wilson, Butler and Waxman moved to amend the bill on page fourteen, following section eight, by inserting a new section, designated section nine, to read as follows:

“§15A-9-9. Sunset.

(a) Except as provided in subsection (b) of this section, §15A-9-1 et seq. of this code shall cease to have effect on June 30, 2025, unless reauthorized by the West Virginia Legislature.

(b) Exception. – With respect to any particular information or intelligence gathering operation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular operation that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect until the operation is completed.”

The question being on the adoption of the amendment, the same was put and did not prevail.

An amendment, offered by Delegate Bibby, was reported by the Clerk.

Whereupon,

Delegate Bibby obtained unanimous consent to withdraw the amendment.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4362, Relating to penalties for neglect, emotional abuse or death caused by a caregiver; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4402, Relating to designation of early voting locations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4439, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4461, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4494, Tobacco Use Cessation Initiative; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4497, Requiring an external defibrillator device at any secondary school athlete event; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4524, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption; on second reading, coming up in regular order, was read a second time.

On motion of Delegate J. Jeffries, the bill was amended on page two, by striking out all of section §60-5-4 and inserting in lieu thereof the following:

“§60-5-4. When election is to be held.

Elections must be held during the typical Primary or General elections; and shall not be held by a special election.”

Delegate Westfall moved to amend the bill on page one, section one, line eight, immediately following the word “county” and the period, by inserting the following:

“On or before June 1, 2020, the Commissioner of the Alcohol Beverage Control Administration shall send a certified letter to all political subdivisions which would be affected by the provisions of this bill. Such entities may stay ‘dry’, that is, not permitting the sale of alcoholic liquors for off-premises consumption, if by August 1, 2020, a majority of the members of the respective county commission or city or town council shall vote to remain dry, and send a certified letter to the Commissioner of the Alcohol Beverage Control Administration, noting the results of such vote.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 333**), and there were—yeas 63, nays 34, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bibby, N. Brown, S. Brown, Caputo, Dean, Diserio, Doyle, Ellington, Espinosa, Estep-Burton, Hansen, Hardy, Higginbotham, Hill, Hornbuckle, J. Kelly, Longstreth, McGeehan, Paynter, Pethtel, Pushkin, Pyles, Rowe, Sponaugle, Staggers, C. Thompson, Walker, Waxman, Williams, Wilson, Worrell and Zukoff.

Absent and Not Voting: Capito, Cowles and Criss.

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

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4535, Relating to student aide class titles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4573, Relating to Medicaid subrogation liens of the Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4574, Establishing Just Transition support for coal and timber related jobs; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4587, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities; on second reading, coming up in regular order, was read a second time.

Delegate Maynard moved to amend the bill on page six, section four, line one, by striking out the (a).

And,

On page six, section four, line nine, by striking out all of subsection (b).

Delegate Hott requested to be excused from voting on Com. Sub. for H. B. 4587 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on adoption of the amendment, the same was put and the amendment was adopted.

The bill was then ordered to engrossment and third reading,

H. B. 4602, Increasing the penalty for DUI causing death when a child is present; on second reading, coming up in regular order, was read a second time.

Delegates Canestraro and Shott moved to amend the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-1. Negligent homicide operation of a motor vehicle resulting in death; penalties.

(a) When the death of any person ensues within one year as a proximate result of injury received by the driving of any vehicle anywhere in this state in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

~~(b) Any person convicted of negligent homicide a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years and shall be fined not less than \$1,500 nor more than \$3,000 shall be punished by imprisonment for not more than one year or by fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment.~~

(b) When the death of any person ensues within one year as a proximate result of injury received by the driving of any vehicle anywhere in this state in reckless disregard of the safety of others, and a child is present in the vehicle at the time of the accident, the person so operating such vehicle shall be guilty of a felony, and shall be punished by imprisonment for not less than three nor more than fifteen years and by a fine of not less than \$2,000 nor more than \$5,000.

(c) The commissioner shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of negligent homicide.

§17C-5-3. Reckless driving; penalties.

(a) Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private, or upon the ways of any state institution, or upon the property of any county boards of education, or upon any property within the state park and public recreation system established by the Director of the Division of Natural Resources pursuant to section three, article four, chapter twenty of this code

in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) The provisions of subsection (a) of this section shall not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the Director of the Division of Natural Resources within the state park and recreation system for exclusive use by motorcycles or other recreational vehicles.

(c) Every person convicted of reckless driving is guilty of a misdemeanor and, upon a first conviction thereof, shall be confined in jail for a period of not less than five days nor more than ninety days, or fined not less than \$25 nor more than \$500, or both, and upon conviction of a second or subsequent conviction thereof, shall be confined in jail not less than ten days nor more than six months, or fined not less than \$50 nor more than \$1,000, or both.

(d) Notwithstanding the provisions of subsection (c) of this section, any person convicted of a violation of subsection (a) of this section who in doing so proximately causes another to suffer serious bodily injury shall be guilty of a felony, and, upon conviction, be imprisoned in a state correctional facility not less than ten days nor more than six months or three years and fined not less than \$50 \$1,000 nor more than \$1,000 \$2,000. or both

(e) For purposes of subsection (d) of this section, ‘serious bodily injury’ means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.”

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

The Speaker ruled that the provisions of the amendment dealing with reckless driving were not germane to the bill.

Whereupon,

Delegate Shott asked and obtained unanimous consent that the amendment be reformed, as follows:

On page one, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-1. Negligent homicide operation of a motor vehicle resulting in death; penalties.

(a) When the death of any person ensues within one year as a proximate result of injury received by the driving of any vehicle anywhere in this state in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

~~(b) Any person convicted of negligent homicide a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years and shall be fined not less than \$1,500 nor more than \$3,000 shall be punished by imprisonment for not more than one year or by fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment.~~

(b) When the death of any person ensues within one year as a proximate result of injury received by the driving of any vehicle anywhere in this state in reckless disregard of the safety of others, and a child is present in the vehicle at the time of the accident, the person so operating such vehicle shall be guilty of a felony, and shall be punished by imprisonment for not less than three nor more than fifteen years and by a fine of not less than \$2,000 nor more than \$5,000.

(c) The commissioner shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of negligent homicide.”

The question being the adoption of the reformed amendment, the same was put and the amendment was adopted.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4560, Relating to deliveries by a licensed wine specialty shop; on second reading, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4619, Approving plans proposed by electric utilities to install middle-mile broadband fiber; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4639, Changing frequency of mandatory state inspections of motor vehicles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4648, The Parenting Fairness Act of 2020; on second reading, coming up in regular order, was read a second time.

Delegate Fluharty moved to amend the bill on page four, section two hundred one, lines ten and eleven, by reinserting the stricken language “(2) The performance by each parent during the last twelve months of the parenting functions relating to the daily needs of the child;” into current law, and renumbering the subsequent subdivisions accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 334**), and there were—yeas 40, nays 58, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cadle and Cowles.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to engrossment and third reading.

H. B. 4665, Reducing the amount of rebate going to the Purchasing Improvement Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4693, Expanding the scope of the Veterans to Agriculture Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4705, Including three types of cancer for which rebuttable presumption of injury from employment exists for firefighters; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4717, Seizure and Forfeiture Reporting Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4746, Establishing a registry of persons with a communication disability; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4804, Relating to comprehensive systems of support for teacher and leader induction and professional growth; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4892, Reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4905, Ban-the-Box Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4925, Requiring the Secondary Schools Athletic Commission to recognize private, parochial, or church schools; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Kessinger and Hornbuckle, the bill was amended on page two, section twenty-five, lines thirty-nine through forty-two, by striking out paragraph (d) in its entirety and inserting in lieu thereof the following:

“(d) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to subsection (b) of this section, if necessary, to carry out the intent of this subsection.”

The bill was then ordered to engrossment and third reading.

H. B. 4929, Relating to the administrative closing of stale or unprogressed estates; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4946, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4953, Providing the PSC with authority to order the acquisition of failing utilities and a variety of tools to assist distressed and failing utilities; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4958, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs; on second reading, coming up in regular order, was read a second time.

Delegate Bates moved to amend the bill on page three, section two-a, line fifty-seven, following the period by inserting a new subdivision (3), to read as follows:

“(3) If a person has made payments for seven years and is in good standing with the terms of his or her repayment plan at the end of the seven year period, further payments are waived and the person is released from any costs, fines, forfeiture or penalties owed under the payment plan.”

On page seven, section two-b, line fifty, following the period by inserting a new subdivision (3), to read as follows:

“(3) If a person has made payments for seven years and is in good standing with the terms of his or her repayment plan at the end of the seven year period, further payments are waived and the person is released from any costs, fines, forfeiture or penalties owed under the payment plan.”

On page sixteen, section two-a, line forty-nine, following the period by inserting a new subdivision (3), to read as follows:

“(3) If a person has made payments for seven years and is in good standing with the terms of his or her repayment plan at the end of the seven year period, further payments are waived and the person is released from any costs, fines, forfeiture or penalties owed under the payment plan.”

And,

On page twenty-five, section seventeen, line eight-five, following the words “paid in full” and the comma by inserting the words “or otherwise released” and a comma.

The question before the House being the adoption of the amendment, the same was put and did not prevail.

On motion of Delegate Hamrick, the bill was amended on page three, section two-a, line fifty, following the period by inserting “The clerk shall notify the person that he or she is 180 days past due, has not enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded against him or her and have his or her debt sent to collections if not resolved within 30 days.”

On page seven, section two-b, line forty-three, following the period by inserting: “The clerk shall notify the person that he or she is 180 days past due, has not enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded against him or her and have his or her debt sent to collections if not resolved within 30 days.”

On page sixteen, section two-a, line fifty-two, following the period by inserting: “The clerk shall notify the person that he or she is 180 days past due, has not enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded against him or her and have his or her debt sent to collections if not resolved within 30 days.”

On page twenty-four, section seventeen, line sixty-six, following the period by inserting: “The clerk shall notify the person that he or she is 180 days past due, has not enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded against him or her and have his or her debt sent to collections if not resolved within 30 days.”

On page three, section two-a, line fifty-one, by striking out the word “90”, and inserting the words “an additional 30”.

On page seven, section two-b, line forty-four, by striking out the word “90”, and inserting the words “an additional 30”.

On page sixteen, section two-a, line fifty-three, by striking out the word “90”, and inserting the words “an additional 30”.

On page twenty-five, section seventeen, line sixty-seven, by striking out the word “90”, and inserting the words “an additional 30”.

On page one, section two-a, line three, following the words “a person” and the period, by inserting the words “Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, fee, or penalty”.

On page two, section two-a, line ten, following the words “of this code”, by inserting after the comma: “or other applicable municipal ordinances.”

And,

On page five, section two-b, line four, following the words “of this code”, by inserting after the comma: “or other applicable municipal ordinances.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4852, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine; on second reading, was read a second time and ordered to engrossment and third reading.

H. B. 4966, Relating generally to updating the North American Industry Classification System code references; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4969, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4970, Relating to military service as a factor in certain insurance coverage rates; on second reading, coming up in regular

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

H. B. 4971, Relating to a closing hospital; on second reading, coming up in regular order, was read a second time.

Delegate Summers asked unanimous consent to advance the bill to third reading with an amendment pending, which consent was not obtained, objection being heard.

An amendment, offered by Delegates Howell, Caputo, Rohrbach, Longstreth, Angelucci and C. Martin, was reported by the Clerk, on page three, line fifty-six, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

“(9) The acquisition of a hospital that has announced its closure, or intention to close, and has filed the required notice of closure with the West Virginia Office of Health Facility Licensure & Certification.

(A) A person acquiring a hospital pursuant to §16-2D-10(a)(9) may:

(i) Renovate the acquired hospital to create a community outpatient medical center;

(ii) Construct, develop, or establish a community outpatient medical center to be located in the same county as the acquired hospital: *Provided*, That if a person decides to utilize this provision, any certificate of need associated with the acquired hospital shall be revoked and any health services to be offered at the acquired hospital shall be subject to the provisions of this article; or

(iii) Construct, develop, or establish a new hospital to be located within the same county and a six-mile radius of the acquired hospital’s current campus. The bed capacity and services to be offered at the new hospital shall be limited to the current bed capacity and services, or reduced bed capacity and services, for which the closing, or closed, hospital maintains a valid certificate of need for on the date the required notice of closure is filed with the West Virginia Office of Health Facility Licensure &

Certification: *Provided*, That the person acquiring the hospital shall continue to maintain services and bed capacity offered by the acquired hospital until the newly constructed, developed, or established hospital is operational.

(B) For purposes of subparagraph §16-2D-10(a)(9)(A), the outpatient services to be offered at a community outpatient medical center shall be limited to the outpatient services for which the closing, or closed, hospital maintains a valid certificate of need for on the date the required notice of closure is filed with the West Virginia Office of Health Facility Licensure & Certification.

(C) For purposes of this subdivision, a community outpatient medical center shall not offer inpatient medical services and, at a minimum shall:

(i) Provide emergency medical care and observation care 24 hours a day, seven days a week;

(ii) Treat all patients regardless of insurance status; and

(iii) Have protocols in place for the timely transfer of patients who require a higher level of care.”

Delegate Bates then obtained unanimous consent that the bill be advanced to third reading with the amendment pending and the general right to amend, and the rule was suspended to permit the consideration of amendments on that reading.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Cowles.

Miscellaneous Business

Delegate Cadle noted to the Clerk that he was absent when the votes were taken on Com. Sub. for H. B. 4360 and Com. Sub. for H. B. 4377, and had he been present, he would have voted “Yea” thereon.

At 5:34 p.m., the House of Delegates adjourned until 9:00 a.m., Wednesday, February 26, 2020.

Wednesday, February 26, 2020

FIFTIETH DAY

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, February 25, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for S. B. 554, Com. Sub. for S. B. 571, S. B. 725, S. B. 778, S. B. 779, S. B. 780, Com. Sub. for H. B. 4746, Com. Sub. for H. B. 4905, H. B. 4953, H. B. 4966 and H. B. 4970, on Third Reading, Special Calendar, had been transferred to the House Calendar; and, Com. Sub. for H. B. 4558, on Third Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Delegate Rowan, Chair of the Committee on Senior, Children, and Family Issues, submitted the following report, which was received:

Your Committee on Senior, Children, and Family Issues has had under consideration:

S. B. 51, Specifying forms of grandparent visitation,

And,

Com. Sub. for S. B. 308, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation,

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

In accordance with the former direction of the Speaker, the bills (S. B. 51 and Com. Sub. for S. B. 308) were each referred to the Committee on the Judiciary.

Delegate Capito, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 16, Creating Protect Our Right to Unite Act,

Com. Sub. for S. B. 35, Limiting civil penalty for littering conviction to \$2,000,

S. B. 300, Updating certain terms in WV Corporation Net Income Tax Act,

S. B. 310, Updating certain terms used in WV Personal Income Tax Act,

S. B. 321, Relating to collection of tax and priority of distribution of estate or property in receivership,

And,

Com. Sub. for S. B. 676, Permitting fees from Child Abuse Registry be used for information technology support costs.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 201, Relating generally to criminal offenses of stalking and harassment,

S. B. 610, Removing resident manager requirement for Alcohol Beverage Control Administration,

Com. Sub. for S. B. 625, Creating one-day annual license to permit charitable auction of sealed rare, antique, or vintage liquor bottles,

And,

S. B. 789, Repealing obsolete sections of WV Code relating to Legislature,

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 106 - “A Bill to amend and reenact §5-1-25 of the Code of West Virginia, 1931, as amended, relating to making daylight saving time the official time in West Virginia year round”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 213 - “A Bill to amend and reenact §44D-1-103, §44D-1-105, and §44D-1-108 of the Code of West Virginia,

1931, as amended; to amend and reenact §44D-6-603 of said code; to amend and reenact §44D-7-703 of said code; to amend and reenact §44D-8-808 of said code; and to amend said code by adding thereto a new article, designated §44D-8A-801, §44D-8A-802, §44D-8A-803, §44D-8A-804, §44D-8A-805, §44D-8A-806, §44D-8A-807, §44D-8A-808, §44D-8A-809, §44D-8A-810, §44D-8A-811, §44D-8A-812, §44D-8A-813, §44D-8A-814, §44D-8A-815, §44D-8A-816, and §44D-8A-817, all relating to the administration of trusts; definitions; default and mandatory rules; principal place of administration; grantor's powers and powers of withdrawal; cotrustees; powers to direct; and enacting the West Virginia Uniform Directed Trust Act which specifies how trust directors can act concerning trusts in this state"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 246 - "A Bill to amend and reenact §51-9-1a, §51-9-5, §51-9-6b, and §51-9-6d of the Code of West Virginia, 1931, as amended, all relating to including family court judges in the retirement system for judges; and authorizing family court judges to participate in the retirement system for judges"; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 284 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated §33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto a new section, designated §33-25A-8u; to amend said code by adding thereto a new article, designated §33-

53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, §33-53-10, §33-53-11, and §33-53-12, all relating to establishing the West Virginia Health Care Continuity Act; making the act applicable to existing code; including provisions for the creation of a State Commission on Health Care Continuity when the act becomes effective; establishing the West Virginia Patient Protection Pool Risk-Sharing Program and review by the Joint Committee on Government and Finance; providing limitations on preexisting condition exclusions for health benefit plans; requiring rulemaking; requiring fairness in cost sharing and ratemaking; and including a conflict of laws provision”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 472 - “A Bill to amend and reenact §62-11A-1a of the Code of West Virginia, 1931, as amended, relating to inmate work generally; including persons convicted in municipal court of ordinance violations as eligible to participate in alternative work programs; specifying supervisory authority for municipally sentenced inmates; authorizing approved and sentenced inmates in the custody of the Commissioner of Corrections to work for municipal, county, and state agencies; providing for sentenced persons in jails and state correctional facilities to perform tasks such as cleaning streams, parks, streets, and highways for municipal and county governments and state agencies; and requiring the commissioner to approve the tasks”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 511 - “A Bill to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §47-26-2a and §47-26-4, all relating generally

to the regulation of pawnbrokers; removing an exception for certain transactions from the report required of all pawnbrokers; requiring all pawnbrokers to be equipped with certain surveillance equipment and signage effective January 1, 2021; prohibiting pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from purchasing certain items or transacting with certain items from anyone; creating misdemeanor offenses for certain violations; directing information to be provided to law enforcement; requiring provision of certain information to a third-party reporting database, and providing certain exceptions to those reporting requirements; and increasing the penalties for existing criminal offenses related to pawnbrokers”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 514 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, and §31A-8G-8, all relating to the West Virginia FinTech Regulatory Sandbox Program; defining terms; establishing requirements for participants to temporarily test innovative financial products or services on a limited basis without first obtaining licensure pursuant to the laws of the state; establishing scope of the ability to operate without otherwise being licensed with respect to approved financial products or services; providing consumer protections; establishing time limitations on the ability to operate without otherwise being licensed with respect to approved financial products or services; providing program exit requirements; providing program extension; providing reporting requirements; defining terms; and providing for rulemaking”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 530 - “A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to taxation of aircraft; exempting from sales and service tax aircraft sold in this state and removed from the state within 60 days; and providing conditions of exemptions”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 569 - “A Bill expiring funds to the balance of the Department of Health and Human Resources, Division of Human Services, Medical Services Program Fund, fund 5084, organization 0511, in the amount of \$3,000,000 from the Department of Administration, Premium Tax Savings Fund, fund 2367, fiscal year 2020, organization 0218; in the amount of \$2,000,000 from 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 2020, organization 0506; and in the amount of \$360,000 from the Department of Health and Human Resources, Division of Human Services, Marriage Education Fund, fund 5490, fiscal year 2020, organization 0511, by supplementing and amending chapter 31, Acts of the Legislature, regular session, 2019, known as the Budget Bill”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 570 - “A Bill expiring funds to the balance of the Department of Health and Human Resources, Division of Human Services, Medical Services Program Fund, fund 5084, organization 0511, in the amount of \$36,202,960, from the State Excess Lottery Revenue Fund, Division of Human Services, fund 5365, fiscal year 2020, organization 0511, by supplementing and amending chapter 31, Acts of the Legislature, regular session 2019,

known as the Budget Bill”); which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 614 - “A Bill to amend and reenact §18-5-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-20-11 of said code, all relating to giving county boards of education, during a specified time period, flexibility to spend the safe schools allocation at any school within the district requiring cameras in special education classrooms; requiring the West Virginia Department of Education, during a specified time period, to first allocate the funding appropriated for the Safe Schools Fund based on the remaining need for video cameras in each district; removing appropriation of funds by the Legislature as a prerequisite to the requirement for video cameras in self-contained classrooms; and clarifying that any available funds may be used to comply with the camera requirements”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 633 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-28, relating generally to creating in the State Treasury a special account known as Medicaid Families First Reserve Fund; specifying moneys that may be deposited in fund; providing for expenditures from fund; and authorizing investments”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect January 1, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 635 - “A Bill to repeal §44-1-28 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §44-1A-1, §44-1A-2, §44-1A-3, §44-1A-4, §44-1A-5, and §44-1A-6, all relating to allowing the administration of small estates containing under \$50,000 in personal property and under \$100,000 in real property by affidavit and without appointment of a personal representative; providing a mechanism for administration of a small estate upon affidavit and without appointment; detailing methods for payment or delivery of small assets to authorized successors; discharging and releasing payors; detailing treatment of real estate in a small estate; providing for the applicability of this article in relation to other sections of the West Virginia Code; providing an effective date; and allowing payment or delivery of small assets of a decedent to an authorized successor”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 657, Allowing designation of tourism development districts.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 668 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44D-8B-1, §44D-8B-2, §44D-8B-3, §44D-8B-4, §44D-8B-5, §44D-8B-6, §44D-8B-7, §44D-8B-8, §44D-8B-9, §44D-8B-10, §44D-8B-11, §44D-8B-12, §44D-8B-13, §44D-8B-14, §44D-8B-15, §44D-8B-16, §44D-8B-17, §44D-8B-18, §44D-8B-19, §44D-8B-20, §44D-8B-21, §44D-8B-22, §44D-8B-23, §44D-8B-24, §44D-8B-25, §44D-8B-26, §44D-8B-27, §44D-8B-28, §44D-8B-29, §44D-8B-30, and §44D-8B-31, all relating to enactment of the Uniform Trust Decanting Act to allow a trustee to

distribute assets of one trust into another trust; providing a short title; defining terms; setting forth the scope of the act; setting forth a fiduciary's duty and the fiduciary's authority to exercise the decanting power; setting forth those trusts to which the act applies; providing for actions or failure to act as a result of reasonable reliance; requiring fiduciary to give notice containing specified information to certain persons before exercising decanting power; providing for notice to representatives and consent of or waiver by a representative; providing for court involvement upon application by a fiduciary or other specified persons; specifying actions which the court may take; requiring a signed record of any exercise of the decanting power; providing for fiduciary's decanting power under expanded distributive discretion and setting forth restrictions on a second trust; providing for fiduciary's decanting power under expanded limited distributive discretion; providing when a special-needs fiduciary may exercise the decanting power for a beneficiary with a disability; requiring fiduciary to protect charitable interests; setting forth first trust limitations which affect decanting; setting forth limitations on a change in a fiduciary's compensation; providing for relief from liability and indemnification of the fiduciary in the second trust instrument; providing for the removal or replacement of an authorized fiduciary through exercise of the decanting power; setting forth tax-related limitations; providing for the duration of the second trust; providing that distribution is not required; setting forth saving provision where second trust does not comply with the act; setting forth requirements regarding a trust for the care of an animal; providing for second trust terms; providing grantor of the first trust is a grantor of the second trust; providing for later-discovered property; providing that obligations of the first trust are obligations of the second trust; providing that application and construction of the act is to be uniform; relating to application of federal act to electronic signatures; and providing for severability and an effective date"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 729 - “A Bill to amend and reenact §7-14D-14 of the Code of West Virginia, 1931, as amended, relating to awards and benefits for disability under the Deputy Sheriff Retirement Act”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 749 - “A Bill to amend and reenact §61-12A-2 and §61-12A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-12A-5, all relating to requiring the Bureau for Public Health to submit its maternal mortality data to the Centers for Disease Control and Prevention for data aggregation; permitting peer review report to be made to birth hospital; requiring Infant and Mortality Review Panel to annually analyze factors impacting maternal and infant mortality and prepare report; and requiring the Bureau for Public Health to perform multi-year analysis to recommend system change to reduce maternal and infant deaths”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 760 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1-1f; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-4 and §18B-1B-6 of said code; to amend and reenact §18B-1D-7 of said code; and to amend and reenact §18B-19-4 of said code, all relating to higher education; providing findings; defining terms; allowing any state college and university to apply to the Higher Education Policy Commission for designation as an administratively exempted school; requiring Higher Education Policy Commission to propose rules for legislative approval that address loss of an administratively exempted designation; setting forth specific

exemptions for a college and university designated as an administratively exempted school; requiring Higher Education Policy Commission report to the Legislative Oversight Commission on Education Accountability certain information pertaining to the administratively exempted schools eligibility criteria; updating institution names; referring to exempted schools as statutorily exempted schools; removing obsolete language; updating code to reflect removal of statewide master plan and compact requirements by prior legislation; removing requirement for Higher Education Policy Commission to advise and confirm in the appointment of presidents of the institutions of higher education under its jurisdiction; amending the powers and duties of the Higher Education Policy Commission, consistent with the specific exemptions provided for administratively exempted schools; clarifying that Higher Education Policy Commission can use certain appropriated incentive funds to influence behavior of statutorily and administratively exempted schools; amending requirements pertaining to the required report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability that includes a recommendation for the allocation of general revenue to be appropriated to the institutions; removing requirement for Higher Education Policy Commission to confirm appointment of institutional presidents; requiring classified employees, if any are employed by the institution, be used when doing evaluations of institutional presidents; updating language to be consistent with replacing institutional and statewide report cards with a data reporting system in prior legislation; removing unnecessary language; declaring that the geographic areas of responsibility for the West Virginia School of Osteopathic Medicine, Marshall University, and West Virginia University are statewide; and removing requirement for Higher Education Policy Commission confirmation of campus development plans"; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 772 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-1-3, relating to clarifying that the Restatements of the Law and other legal treatises are not controlling authority”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 793 - “A Bill to amend and reenact §11-13-2q of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-13-2r, all relating to business and occupation taxes imposed on operators of certain coal-fired electric generating units located in this state; clarifying application of certain sections of code; providing for recomputation of taxable generating capacity of certain coal-fired electric generating units for business and occupation tax purposes under certain circumstances; defining certain terms, imposing recapture tax under certain circumstances; and specifying effective dates”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 798 - “A Bill to amend and reenact §19-37-2 of the Code of West Virginia, 1931, as amended, relating to adding pasteurized milk and other dairy foods produced or processed in West Virginia to the list of items required to be purchased by all state-funded institutions, such as schools, colleges, correctional facilities, governmental agencies, and state parks”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 800 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31G-4-5a, relating to authorizing electric utilities to construct and operate a project within the electric utility distribution system”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 805 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Transportation, Division of Highways, A. James Manchin Fund, fund 8319, fiscal year 2020, organization 0803, and to the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund 8402, fiscal year 2020, organization 0804, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 812 - “A Bill making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Bureau of Senior Services, Lottery Senior Citizens Fund, fund 5405, fiscal year 2020, organization 0508, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

S. B. 816 - “A Bill to amend and reenact §11-6F-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-13S-3 of said code, all relating generally to updating the North American Industry Classification System code references; and making other technical changes to conform to new bill-drafting requirements.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 816) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 819 - “A Bill to amend and reenact §17C-17A-2, §17C-17A-3, §17C-17A-5, and §17C-17A-12 of the Code of West Virginia, 1931, as amended, all relating to coal resource transportation roads; defining certain terms; expanding coal resource transportation road system; updating reporting requirements for Division of Highways and Public Service Commission; updating maximum distance for special crossing permits; updating process for designation and decertification of coal resource transportation roads; renaming Coal Resource Transportation Designation Committee as Coal Resource Transportation Advisory Committee and redefining authority; and correcting technical errors”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

S. B. 828 - “A Bill to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended, relating to clarifying municipal business and occupation taxation where business activity occurs in more than one location; defining terms to reflect

the changing national economy; and authorizing the Tax Commissioner to promulgate any necessary regulations”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. C. R. 49 - “Requesting the West Virginia Department of Transportation, Division of Highways, evaluate the October 1, 2018, Updated Oil and Gas Road Policy.”

Whereas, Implementation of a responsible regulatory scheme to address the road damage caused by natural gas development, transportation, and storage is in the public interest and should be done in a manner that protects our citizens, our industry, and our roads and highways for current and future generations; and

Whereas, The West Virginia Department of Transportation, Division of Highways, issued the Updated Oil and Gas Road Policy most recently on October 1, 2018; and

Whereas, It is in the public interest for West Virginia to evaluate whether changes to this policy are needed to reflect current economic and infrastructure conditions; therefore, be it

Resolved by the Legislature of West Virginia:

That the West Virginia Department of Transportation, Division of Highways, is hereby requested to evaluate the October 1, 2018, Updated Oil and Gas Road Policy; and, be it

Further Resolved, That specific objectives of the study plan shall include: (1) Identifying if there are gaps in the existing policy that resulted in damages to West Virginia roads without correction or reimbursement of costs; (2) coordinating with stakeholders to resolve the issues identified; and (3) if necessary, proposing recommendations for specific amendments to the oil and gas road policy, an alternative policy, or permitting scheme; and, be it

Further Resolved, That the West Virginia Department of Transportation, Division of Highways, report to the Joint Legislative Oversight Committee on Transportation and Infrastructure, during the summer 2020 interim session, on its findings, conclusions, and recommendations.

Resolutions Introduced

Delegates J. Jeffries, Wilson, D. Jeffries, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Cooper, Dean, Fast, Foster, Higginbotham, Hott, Householder, Mandt, C. Martin, P. Martin, McGeehan, Pack, Phillips, Steele and Toney offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 15 - “Expressing the disapproval of the House of Delegates to Senator Manchin for his vote to convict President Donald J. Trump in the impeachment trial.”

Whereas, The House of Delegates stands firmly behind our President, whose policies have created unprecedented levels of American prosperity. The impeachment effort has served only to distract America from the serious issues we face, and in November voters should be the final arbiters of the conduct of the President; and

Whereas, The impeachment alleged and charged the President with “abuse of office” and “contempt of Congress”, neither of which is a crime; and

Whereas, Senator Manchin only hours before the Senate vote was arguing for action less than conviction in the form of a compromise or censure of the President, apparently believing then that whatever the President was being charged with by the House of Representatives did not rise to impeachable actions; therefore, be it

Resolved by the House of Delegates:

That this chamber express its disagreement and disapproval of the vote of Senator Manchin to convict President Donald J. Trump in the impeachment trial; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to Senator Joe Manchin.

Delegates R. Thompson, Hicks, Rodighiero, Evans, Lovejoy and N. Brown offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 119 - “Requesting the Division of Highways name that portion of County Route 35 beginning where it intersects with CR 39 and ending where it intersects with CR 33 in Wayne County, the ‘Nelson Veterans Memorial Road’.”

Whereas, U.S. Army Technician 5th Grade Oscar Nelson was born on April 10, 1919, in Southern Wayne County near Dunlow to Millard and Melinda Nelson. He grew to adulthood working on his family farm and at his father’s steam sawmill; and

Whereas, When World War II erupted, Technician Nelson enlisted in the military on March 28, 1942, and served in several units before eventually begin assigned to the 82nd Airborne; and

Whereas, On June 6, 1944, Technician Nelson participated in the early morning glider landings in Normandy behind German lines. After being severely injured when his glider crashed he was nursed back to health by a French family. Technician Nelson returned to the front lines and was on a hill in Germany when he learned of the German surrender. He also served in North Africa and Italy; and

Whereas, Technician Nelson was awarded the Purple Heart, the Good Conduct Medal, the European African Middle Eastern Service Ribbon, and the Distinguished Unit Badge, and was honorably discharged on September 24, 1945; and

Whereas, After the war, Technician Nelson returned home to Wayne County and lived the rest of his life on his family farm. He raised a family, and two sons, Dan and Mike, served in the military as well; and

Whereas, Technician Nelson died on February 14, 2004; and

Whereas, It is a fitting tribute to U. S. Army Technician 5th Grade Oscar Nelson that this stretch of road be named for him and his contribution to his country and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name that portion of County Route 35 beginning where it intersects with CR 39 and ending where it intersects with CR 33 in Wayne County, the “Nelson Veterans Memorial Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the “Nelson Veterans Memorial Road”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates R. Thompson, Hicks, Rodighiero, Evans, Lovejoy and N. Brown offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 120 - “Requesting the Division of Highways name bridge number 50-075/00-007.25 (50A149), locally known as Buffalo Beam Span, carrying WV Route 75 over Twelvepole Creek in Wayne County, the ‘Haynie Family Veterans Memorial Bridge’.”

Whereas, The Haynie’s have been in the Buffalo Creek area since the early 1800’s; and served their county in World Wars I and II; and

Whereas, Anthony Haynie was born July 22, 1895, in Wayne County, West Virginia. He enlisted in the Army October 5, 1917, and was discharged June 10, 1919. He served under General Pershing, Battery C 315 “Field Artillery, 80” Division. PV 1 Anthony’s unit had advanced to the town of Romagne and were engaged with the Germans. Three guns of his battery were knocked out by shell fire and gas attack. The battery commander asked for

volunteers to man the guns in spite of the fierce gas attack and Anthony answered the call. His record reveals that he was severely wounded in that engagement. He received the Purple Heart. Anthony died January 17, 1976; and

Whereas, Arthur Haynie was born November 17, 1921. Arthur attended the old wooden school at Buffalo. He entered the Army December 14, 1942. At discharge, he was a Tech 5, MP. He died September 18, 1995; and

Whereas, James E. Haynie, PVT 1 Class, WWII James was born August 16, 1923, in Wayne County, WV. He attended and graduated from Buffalo High School. He served in the Army from July 8, 1943, through December 7, 1945, He was a Demolition Expert and served in Calcutta and Burma. His unit merged with Merrill's Marauders and came behind them, "cleaning up their mess". He received Asiatic Pacific Theater Ribbon, WWII Victory Ribbon and Distinguished Unit Bade with two Bronze Stars. He died September 14, 2014; and

Whereas, Robert V. Haynie, PVT 1 Class, WWII Robert was born March 24, 1925, in Wayne County. He attended Buffalo High School. He served in the Army from August 28, 1943, through February 14, 1946. He was a Military Policeman serving in the European Theater of Operation, He served in Normandy, Northern France and Rhineland. He was a recipient of the Purple Heart. He was a recipient of the European African Middle Eastern Theater Ribbon and WWII Victory Ribbon. He died December 25, 2018; and

Whereas, Charles E. Haynie, WWII Charles was born April 14, 1927, in Wayne County, WV. He attended Buffalo High School. He enlisted in the Navy. He served on the USS Sandoval (APA-194) as a coxswain and was in Iwo Jima. He died November 20, 2016; and

Whereas, It is fitting that an enduring memorial be established to commemorate The Haynie Family and their contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-075/00-007.25 (50A149), locally known as Buffalo Beam Span, carrying WV Route 75 over Twelvepole Creek in Wayne County, the “Haynie Family Veterans Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Haynie Family Veterans Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

And,

Delegates Caputo, Miley, Robinson, Miller, Lovejoy, Canestraro, Byrd, Toney, Dean, Rohrbach and Paynter offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 121 - “Requesting the Joint Committee on Government and Finance study the West Virginia State Police’s increased duties and responsibilities and determine the number of full-time equivalent positions that are needed to meet the statutory mission of statewide enforcement of criminal and traffic laws, with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state’s public streets, roads, and highways.”

Whereas, The West Virginia State Police has been protecting the citizens of this state since 1919, investigating crimes, traffic accidents, providing crowd control, directing traffic, apprehending sexual predators and those who terrorize our neighborhoods, to ensure that we live in peace; and

Whereas, The West Virginia State Police has seen a decrease in manpower since 2001, when more than 700 troopers protected West Virginia, to currently only employing 615 troopers; and

Whereas, The West Virginia State Police's duties and responsibilities have continued to grow during that same time period, which have included the sex offenders within the state that are required to register with the West Virginia State Police. In 2001, the sex offender registry had 1,468 sex offenders within the state and this has now grown to over 5,639 offenders, the tracking of which the West Virginia State Police is responsible; and

Whereas, In 2017, there were 833 drug overdose deaths reported in West Virginia involving opioids, making West Virginia the highest age-adjusted rate of drug overdose deaths involving opioids in the country; and

Whereas, The most recent figures reflect that the West Virginia State Police answered 159,552 calls for service for the citizens of West Virginia in a one-year period; and

Whereas, The Legislature finds that it should take an active role in studying, formulating, and implementing a plan to provide the necessary manpower, equipment, and resources needed for the West Virginia State Police to meet its statutory mission of statewide law enforcement; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the West Virginia State Police's increased duties and responsibilities and determine the number of full-time equivalent positions that are needed to meet the statutory mission of statewide enforcement of criminal and traffic laws, with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state's public streets, roads and highways; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation, be paid from legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Third Reading

Com. Sub. for H. B. 2478, Modifying the Fair Trade Practices Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Jennings and McGeehan.

Absent and Not Voting: Byrd and Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2478) passed.

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

Com. Sub. for H. B. 2897, Relating to driving restrictions in school zones; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: S. Brown, Byrd and Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2897) passed.

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

H. B. 4159, Relating to the manufacture and sale of hard cider; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 81, nays 17, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Butler, Cooper, Fast, D. Jeffries, Jennings, Kump, Mandt, P. Martin, Pack, Porterfield, Rohrbach, Toney, Waxman, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Byrd and Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4159) passed.

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

H. B. 4159 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated §19-2-12 and §19-2-13; to amend and reenact §60-1-5a of said code; to amend and reenact §60-8-2, §60-8-3, §60-8-4, §60-8-18, and §60-8-29 of said code; and to add a new article to said code designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, §60-8A-6, and §60-8A-7, all relating to the manufacture and sale of wine and hard cider; establishing the Agriculture Development Fund; establishing permitted expenditures from the fund; creating a new program to develop hard cider; providing for definitions; clarifying various aspects of wine, specifically the alcohol by volume percentage for table wine, wine, and fortified wine; adding the definition of ‘nonfortified dessert wine’; clarifying penalties for

failure to meet requirements; replacing bond requirements that secure the payment of taxes by distributors, suppliers, certain wineries, and certain farm wineries, who are acting as either suppliers or distributors in a limited capacity, with an affidavit; providing penalties for failure to pay taxes and maintain good standing with the state; providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor's license; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for applicability of other laws; requiring regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption; providing for complementary samples to be given; establishing requirements for complementary samples; permitting the sale of growlers; establishing growler labeling requirements; establishing growler sanitation requirements; providing for fees for the privilege to sell growlers; and providing for rule-making authority.”

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

Com. Sub. for H. B. 4176, West Virginia Intelligence/Fusion Center Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Yeas: McGeehan, Paynter, Phillips and Staggers.

Absent and Not Voting: Byrd and Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4176) passed.

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

Com. Sub. for H. B. 4362, Relating to penalties for neglect, emotional abuse or death caused by a caregiver; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4362) passed.

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

H. B. 4402, Relating to designation of early voting locations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4402) passed.

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

Com. Sub. for H. B. 4439, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lavender-Bowe.

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4439) passed.

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

Com. Sub. for H. B. 4461, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 63, nays 35, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Bibby, N. Brown, S. Brown, Butler, Campbell, Canestraro, Diserio, Evans, Fast, Fleischauer, Fluharty, Foster, Hansen, Hornbuckle, Kessinger, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Paynter, Robinson, Rodighiero, Staggers, Steele, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Waxman, Williams, Wilson and Zukoff.

Absent and Not Voting: Doyle and Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4461) passed.

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

Com. Sub. for H. B. 4494, Tobacco Use Cessation Initiative; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Cadle, Foster, Graves, Hanna, P. Martin, Steele, Waxman and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4494) passed.

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

Com. Sub. for H. B. 4497, Requiring an external defibrillator device at any secondary school athlete event; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4497) passed.

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

H. B. 4524, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption; on third reading, coming up in regular order, was read a third time.

Delegate C. Martin requested to be excused from voting on H. B. 4524 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 73, nays 26, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Bibby, Butler, Cooper, Fast, Foster, Hicks, Howell, D. Jeffries, Jennings, Kessinger, Kump, C. Martin, P. Martin, Pack, Paynter, Porterfield, Rohrbach, Rowan, R. Thompson, Toney, Waxman, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Mandt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4524) passed.

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

Pursuant to House Rule 58, Delegate Bates, having voted on the prevailing side when the House of Delegates rejected **Com. Sub. for H. B. 2088** on yesterday, moved that the vote be reconsidered.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 346**), and there were—yeas 53, nays 47, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Butler, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the motion to reconsider the vote by which the House of Delegates rejected Com. Sub. for H. B. 2088 prevailed.

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

On this question, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 53, nays 47, absent and not voting none, with the nays being as follows:

Nays: Anderson, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Butler, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Howell, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the motion for the previous question prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 54, nays 46, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Butler, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2088) passed.

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

Com. Sub. for H. B. 4535, Relating to student aide class titles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Hartman, Hicks, Miley, Skaff and Sypolt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4535) passed.

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

Com. Sub. for H. B. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4558) passed.

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

Com. Sub. for H. B. 4560, Relating to deliveries by a licensed wine specialty shop; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Azinger, Bartlett, Butler, Fast, D. Jeffries, Jennings, Kump, C. Martin, P. Martin, Porterfield, Rowan, Toney and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4560) passed.

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

Com. Sub. for H. B. 4573, Relating to Medicaid subrogation liens of the Department of Health and Human Resources; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 58, nays 42, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Jennings, Lavender-Bowe, Lovejoy, Miley, Miller, Paynter, Pushkin, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Steele, C. Thompson, R. Thompson, Tomblin, Walker, Williams, Wilson and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4573) passed.

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

Com. Sub. for H. B. 4574, Establishing Just Transition support for coal and timber related jobs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4574) passed.

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

Com. Sub. for H. B. 4587, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities; on third reading, coming up in regular order, was read a third time.

Delegate Hott inquired regarding whether the ruling on his request to be excused from voting under the provisions of House Rule 49 during second reading on yesterday applied to passage.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 63, nays 37, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barrett, Bates, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Diserio, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Pethtel, Pushkin, Robinson, Rodighiero, Rowe, Sponaugle, Staggers, Storch, C. Thompson, R. Thompson, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4587) passed.

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

H. B. 4602, Increasing the penalty for DUI causing death when a child is present; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 355**), and there were—yeas 67, nays 33, absent and not voting none, with the nays being as follows:

Nays: Bates, Boggs, N. Brown, S. Brown, Butler, Cadle, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hartman, Hicks, Hill, Hornbuckle, Jennings, Lovejoy, McGeehan, Pethtel, Phillips, Pushkin, Pyles, Rowe, Skaff, Sponaugle, Staggers, Sypolt, C. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4602) passed.

On motion of Delegates Shott and Canestraro, the title of the bill was amended to read as follows:

H. B. 4602 - “A Bill to amend and reenact §17C-5-1 of the Code of West Virginia, 1931, as amended, relating to increasing the penalty for negligent operation of a motor vehicle causing death, and providing an additional penalty for negligent operation of a motor vehicle causing death when a child is present in the vehicle at the time of the accident.”

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

Com. Sub. for H. B. 4619, Approving plans proposed by electric utilities to install middle-mile broadband fiber; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4619) passed.

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

Com. Sub. for H. B. 4639, Changing frequency of mandatory state inspections of motor vehicles; on third reading, coming up in regular order, was read a third time.

Delegate Zukoff requested to be excused from voting on Com. Sub. for H. B. 4639 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

* * * * *

Speaker Pro Tempore Cowles in the Chair

* * * * *

Delegate Higginbotham requested to be excused from voting on Com. Sub. for H. B. 4639 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

* * * * *

Mr. Speaker, Mr. Hanshaw, in the Chair

* * * * *

Delegate Linville requested to be excused from voting on Com. Sub. for H. B. 4639 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

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

On this question, the yeas and nays were taken (**Roll No. 357**), and there were—yeas 48, nays 50, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Cadle, Capito, Criss, Dean, Ellington, Espinosa, Fast, Foster, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Howell, D. Jeffries, J. Jeffries, Kessinger, Kump, Linville, Little, C. Martin, P. Martin,

Maynard, McGeehan, Pack, Paynter, Phillips, Porterfield, Queen, Rohrbach, Rowan, Shott, Staggers, Steele, Summers, Sypolt, Toney, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Angelucci and Estep-Burton.

So, a majority of the members present and voting not having voted in the affirmative, the motion for the previous question did not prevail.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 48, nays 51, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Cowles, Criss, Dean, Ellington, Espinosa, Fast, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, Kessinger, Kump, Linville, Little, C. Martin, P. Martin, Maynard, McGeehan, Pack, Paynter, Phillips, Porterfield, Rohrbach, Rowan, Shott, Steele, Summers, Sypolt, Toney, Waxman, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Estep-Burton.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4639) rejected.

Com. Sub. for H. B. 4648, The Parenting Fairness Act of 2020; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 59, nays 38, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Espinosa, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Westfall and Zukoff.

Absent and Not Voting: N. Brown, Cooper and Estep-Burton.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4648) passed.

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

H. B. 4665, Reducing the amount of rebate going to the Purchasing Improvement Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 360**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton and Fleischauer.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4665) passed.

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

Com. Sub. for H. B. 4693, Expanding the scope of the Veterans to Agriculture Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 361**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton, Fleischauer and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4693) passed.

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

H. B. 4705, Including three types of cancer for which rebuttable presumption of injury from employment exists for firefighters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 362**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton and Fleischauer.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4705) passed.

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

Com. Sub. for H. B. 4717, Seizure and Forfeiture Reporting Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 363**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Byrd, Cadle, Campbell, Canestraro, Hicks, Hott, D. Kelly, Lovejoy, Miller, Queen, Robinson, Rodighiero, Steele, Summers, Swartzmiller, R. Thompson, Tomblin, Westfall and Zukoff.

Absent and Not Voting: N. Brown, Estep-Burton and Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4717) passed.

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

H. B. 4804, Relating to comprehensive systems of support for teacher and leader induction and professional growth; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 364**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton, Linville and Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4804) passed.

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

Com. Sub. for H. B. 4852, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 365**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Pushkin and Rowe.

Absent and Not Voting: N. Brown and Estep-Burton.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4852) passed.

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

Com. Sub. for H. B. 4892, Reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 366**), and there were—yeas 89, nays 8, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Cowles, Doyle, Fleischauer, Lavender-Bowe, Nelson, Robinson, Skaff and Sponaule.

Absent and Not Voting: N. Brown, Estep-Burton and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4892) passed.

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

Com. Sub. for H. B. 4925, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4925) passed.

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

Com. Sub. for H. B. 4925 – “A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Secondary Schools Athletic Commission to recognize preparatory athletic programs as nonparticipating members; requiring the preparatory athletic program to pay fees; setting forth parameters of the nonparticipating membership; and allowing for emergency rulemaking.”

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

H. B. 4929, Relating to the administrative closing of stale or unprogressed estates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 95, nays none,

absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton, Hornbuckle, Linville and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4929) passed.

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

Com. Sub. for H. B. 4946, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 369**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Estep-Burton and Hardy.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4946) passed.

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

H. B. 4958, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 370**), and there were—yeas 89, nays 9, absent

and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Cooper, Criss, Hicks, Little, Phillips, R. Thompson and Tomblin.

Absent and Not Voting: N. Brown and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4958) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 371**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cadle.

Absent and Not Voting: N. Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4958) takes effect July 1, 2020.

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

H. B. 4969, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations; on third reading, coming up in regular order, was read a third time.

Delegate Porterfield requested to be excused from voting on H. B. 4969 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler and Cadle.

Absent and Not Voting: N. Brown, J. Jeffries and Mandt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4969) passed.

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

H. B. 4971, Relating to a closing hospital; on third reading, coming up in regular order, with an amendment pending and the general right to amend, was reported by the Clerk.

On motion of Delegates Howell, Caputo, Rohrbach, Longstreth, Angelucci and C. Martin, the bill was amended on page three, line fifty-six, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

“(9) The acquisition of a hospital that has announced its closure, or intention to close, and has filed the required notice of closure with the West Virginia Office of Health Facility Licensure & Certification.

(A) A person acquiring a hospital pursuant to §16-2D-10(a)(9) may:

(i) Renovate the acquired hospital to create a community outpatient medical center;

(ii) Construct, develop, or establish a community outpatient medical center to be located in the same county as the acquired hospital: *Provided*, That if a person decides to utilize this provision, any certificate of need associated with the acquired hospital shall

be revoked and any health services to be offered at the acquired hospital shall be subject to the provisions of this article, or;

(iii) Construct, develop, or establish a new hospital to be located within the same county and a six-mile radius of the acquired hospital's current campus. The bed capacity and services to be offered at the new hospital shall be limited to the current bed capacity and services, or reduced bed capacity and services, for which the closing, or closed, hospital maintains a valid certificate of need for on the date the required notice of closure is filed with the West Virginia Office of Health Facility Licensure & Certification: *Provided*, That the person acquiring the hospital shall continue to maintain services and bed capacity offered by the acquired hospital until the newly constructed, developed, or established hospital is operational.

(B) For purposes of subparagraph §16-2D-10(a)(9)(A), the outpatient services to be offered at a community outpatient medical center shall be limited to the outpatient services for which the closing, or closed, hospital maintains a valid certificate of need for on the date the required notice of closure is filed with the West Virginia Office of Health Facility Licensure & Certification.

(C) For purposes of this subdivision, a community outpatient medical center shall not offer inpatient medical services and, at a minimum shall:

(i) Provide emergency medical care and observation care 24 hours a day, seven days a week;

(ii) Treat all patients regardless of insurance status; and

(iii) Have protocols in place for the timely transfer of patients who require a higher level of care.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 373**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Atkinson, N. Brown and J. Jeffries.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4971) passed.

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

On this question, the yeas and nays were taken (**Roll No. 374**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Atkinson, N. Brown and J. Jeffries.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4971) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 586, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page ninety, section seven, line one hundred two, after the semicolon, by striking out the word “and”, and by inserting a new subdivision to read as follows:

“(32) Exempt designated sections within the Division of Natural Resources from the requirement that all payments must be deposited in a bank within 24 hours for amounts less than \$500, notwithstanding any other provision of this code to the contrary: *Provided*, That such designated sections shall make a deposit in any amount no less than every seven working days; and”.

And,

By renumbering the remaining subdivision accordingly.

The bill was then ordered to third reading.

S. B. 727, Relating to disbursement of funds for highway road repair; on second reading, coming up in regular order, was read a second time.

Delegate Fluharty asked unanimous consent to advance the bill to third reading with the right to amend, which request was not granted, objection being heard.

Delegate Fluharty then so moved.

Whereupon,

In the absence of objection, the bill was placed at the foot of all bills on the calendar.

S. B. 734, Clarifying powers and duties of DOH in acquiring property for state road purposes; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

S. B. 202, Allowing one member of PSD board to be county commissioner,

Com. Sub. for S. B. 225, Empowering municipalities to enact Adopt-A-Street programs,

Com. Sub. for S. B. 240, Requiring hotels and restaurants secure manhole covers of certain grease traps,

Com. Sub. for S. B. 241, Requiring State Board of Education develop method for student transportation costs as stand-alone consideration,

S. B. 281, Removing residency requirement for persons applying for reappointment to municipal police dept,

S. B. 307, Correcting code citation relating to certain tax liens,

S. B. 509, Relating to custodial allocation actions independent of divorce,

S. B. 523, Extending deadline for municipalities to offer Social Security coverage to certain municipal retirement system members,

Com. Sub. for S. B. 529, Establishing limitations on claims and benefits against state,

S. B. 552, Requiring contracts of \$25,000 or more be competitively bid,

Com. Sub. for S. B. 576, Relating to management of public records,

Com. Sub. for S. B. 583, Creating program to further development of renewable energy resources,

S. B. 652, Authorizing School Building Authority promulgate legislative rules,

Com. Sub. for S. B. 686, Exempting contract and common carrier laws for certain vehicles,

S. B. 703, Increasing earning limit for employees who accept separation incentive,

Com. Sub. for S. B. 706, Clarifying duties of law-enforcement training and certification subcommittee,

S. B. 712, Correcting name of Forensic Analysis Laboratory,

And,

S. B. 781, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

Having been read a second time in earlier proceedings and having been placed at the foot of all bills, the House returned to consideration of **S. B. 727**, Relating to disbursement of funds for highway road repair.

An amendment, offered by Delegate Fluharty was reported by the Clerk, on page six, section eleven, line one hundred forty-seven, by striking out the number "\$1" and inserting in lieu thereof "\$2)".

Whereupon,

In the absence of objection, the motion to advance the bill to third reading with the right to amend was withdrawn and Delegate Fluharty obtained unanimous consent that the amendment be reformed, as follows:

On page seven, section eleven, line one hundred forty-seven, by striking out the number "\$1" and inserting in lieu thereof "\$1.50".

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

The yeas and nays having been ordered, they were taken (**Roll No. 375**), and there were—yeas 63, nays 35, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Bibby, Butler, Cadle, Capito, Dean, Ellington, Fast, Foster, Graves, Hanna, Hardy, Higginbotham, Hott, Howell, D. Jeffries, J. Jeffries, D. Kelly, J. Kelly, Kessinger, Kump, Mandt, C. Martin, P. Martin, Maynard, McGeehan, Nelson, Paynter, Phillips, Porterfield, Rowan, Steele, Summers and Toney.

Absent and Not Voting: N. Brown and Hicks.

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

The bill was then ordered to third reading.

Miscellaneous Business

Prior to passage of H. B. 4602, Delegate Estep-Burton obtained consent to be removed as a cosponsor.

Delegate Doyle noted to the Clerk that he was absent when the vote was taken on Com. Sub. for H. B. 4461, and had he been present, he would have voted “Nay” thereon.

Pursuant to House Rule 94b, forms were filed with the Clerk’s Office to be added as a cosponsor of the following:

- Delegate Hornbuckle for H. B. 4368
- Delegates Estep-Burton, Caputo and Pushkin for H. C. R. 60
- Delegates Caputo, Estep-Burton and Robinson for H. C. R. 68

Pursuant to House Rule 132, consent was requested and obtained to print the following remarks in the Appendix to the Journal:

- Delegate Evans, Linville, Mandt, Miller and Rohrbach regarding Com. Sub. for H. B. 4497
- Delegates Bartlett, Kump and Pushkin regarding H. B. 4524
- All of the debate on Com. Sub. for H. B. 4780 on yesterday
- Delegate Graves regarding H. B. 4958
- Delegate Sypolt regarding H. B. 4969

At 3:49 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 27, 2020.

Thursday, February 27, 2020

FIFTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 26, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Bibby, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. C. R. 86, Designating June 12th each year as Women Veterans Appreciation Day,

And,

H. R. 7, Designating a single state funeral to be held upon the death of the last living Medal of Honor recipient from World War II,

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

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 86 and H. R. 7) were referred to the Committee on Rules.

Delegate Bibby, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

S. B. 114, Providing continued eligibility for developmental disability services to dependents of military members,

And,

S. B. 203, Allowing certain deductions from personal income tax refunds,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (S. B. 114 and S. B. 203) were each referred to the Committee on Finance.

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

Your Committee on Technology and Infrastructure has had under consideration:

S. B. 266, Clarifying and updating language regarding Fairmont State alumni license plates,

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

In accordance with the former direction of the Speaker, the bill (S. B. 266) was referred to the Committee on Government Organization.

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

Your Committee on Technology and Infrastructure has had under consideration:

Com. Sub. for S. B. 306, Licensing of drivers utilizing bioptic telescopic devices,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 306) was referred to the Committee on Government Organization.

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 10, Robert “Glen” Schoonover Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 10 - “Requesting the Division of Highways name bridge number 42-25-21.84 (42SS028), locally known as the Hart Chapel Bridge, carrying County Route 25 over Laurel Fork at the forks of Chenoweth Creek Road and Evans Road near the Hart Chapel Church near Elkins in Randolph County, the ‘Robert ‘Glen’ Schoonover Memorial Bridge’,”

H. C. R. 15, Rose Agnes Rolls Cousins Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 15 - "Requesting the Division of Highways name bridge number 25-310-10.31 (25A272), locally known as Third Street Bridge, carrying WV 310 over Benoni Avenue and Coal Run in Marion County, the 'Rose Agnes Rolls Cousins Bridge',"

H. C. R. 23, U. S. Army Spec. 4, Roger Dale Griffith Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 23 - "Requesting the Division of Highways name bridge number 42-48-42.37 NB & SB(42A202, 42A203), (38.95410,-79.85749) locally known as Laurel Mountain Road Bridges, carrying US 48 over CR11 and US 219 in Randolph County, the 'U. S. Army SPC Roger Dale Griffith Memorial Bridge',"

H. C. R. 30, U. S. Army Corporal C. O. "Skip" Johnson Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 30 - "Requesting the Division of Highways name bridge number: 34-19-29.10 NB & SB (34A095, 34A096), (38.50057, -80.75533) locally known as Birch River Interchange Bridges, carrying US 19 over Birch River in Nicholas county, the 'C. O. "Skip" Johnson Memorial Bridge',"

H. C. R. 41, U. S. PFC Dennis Warren Baxter, USMC, Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 41 - “Requesting the Division of Highways name bridge number 42-33-8.40, locally known as Gum Lick Run Bridge, carrying US Route 48 over Gum Lick Run in Randolph County, the ‘U.S.M.C. PFC Dennis Warren Baxter Memorial Bridge’,”

H. C. R. 42, PFC David Henry Shiflett Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 42 - “Requesting the Division of Highways name bridge number 42.219/86-001.86 (42A143), locally known as Gilman Bridge, carrying US Route 219 over Leading Creek in Randolph County, the ‘U.S. Army PFC David Henry Shiflett Memorial Bridge’,”

H. C. R. 82, Naming a portion of Buffalo Creek Road, In Memory of Tootsie Hensley, Please Keep Buffalo Creek Litter Free,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 82 - “Requesting the Division of Highways name a portion of Buffalo Creek Road, CR7, along the 2.59 miles between WV75 and Rice Branch Road CR14/1 in Wayne County, the ‘In Memory of Tootsie Hensley, Please Keep Buffalo Creek Litter Free’,”

And,

H. C. R. 90, Wood Brothers Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 90 - “Requesting the Division of Highways name bridge number NHPP-0035(202) (11350), carrying U.S. Route 35 over County Route 29 and Little Sixteen

Mile Creek in Mason County, the ‘Wood Brothers Veterans Memorial Bridge’,”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 10, Com. Sub. for H. C. R. 15, Com. Sub. for H. C. R. 23, Com. Sub. for H. C. R. 30, Com. Sub. for H. C. R. 41, Com. Sub. for H. C. R. 42, Com. Sub. for H. C. R. 82 and Com. Sub. for H. C. R. 90) were referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 6, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights,

Com. Sub. for S. B. 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers,

Com. Sub. for S. B. 649, Permitting county emergency phone system directors negotiate contracts for mobile phones,

And,

S. B. 651, Relating to definition of “mortgage loan originator”,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 562, Expunging certain criminal convictions,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 96, Prohibiting municipalities from limiting persons' rights to possess certain weapons,

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

Delegate Bibby, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

S. B. 289, Creating Green Alert Plan,

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

In accordance with the former direction of the Speaker, the bill (S. B. 289) was referred to the Committee on Finance.

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 2, Requesting the Division of Highways name a portion of WV 3 Vietnam Veterans Memorial Highway,

H. C. R. 6, Clarence Watson Meadows Memorial Boulevard,

H. C. R. 11, U. S. Army SGT Robert R. "Bob" Defibaugh Memorial Bridge,

H. C. R. 27, U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge,

H. C. R. 28, U.S.M.C. Cpl Andrew Ryan White Memorial Bridge,

H. C. R. 40, The Hall Brothers Veterans Bridge,

H. C. R. 47, U. S. Army Air Corps SSGT Charles Dexter Duncan Memorial Road,

H. C. R. 51, Gunsmiths Trace,

H. C. R. 60, U. S. Army PFC Teddy Ray Chandler Memorial Bridge,

H. C. R. 63, Sharp Military Brothers Bridge,

H. C. R. 64, U. S. Army SP5 Benny Ray Snodgrass Memorial Bridge,

H. C. R. 66, U. S. Army Sgt. Joseph W. McCutcheon Memorial Bridge,

H. C. R. 67, First Lieutenant Fred Omar Pratt Memorial Bridge,

H. C. R. 68, Kidd Brothers Veterans Memorial Bridge,

H. C. R. 79, U. S. Army Nurses Corp CPT Nancy Margret Kiess Memorial Bridge,

H. C. R. 80, U. S. Army Major Michael Alphonse Rafferty Memorial Bridge,

H. C. R. 83, U. S. Army SFC Guy R. Hively Memorial Bridge,

H. C. R. 88, Johnnie Bryant Moore Memorial Bridge,

H. C. R. 91, Caldwell Brothers Memorial Road,

H. C. R. 92, Mayor Abraham E. Huddleston Memorial Bridge,

H. C. R. 94, Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side,

H. C. R. 99, U. S. Army CPL Russell Allen Taylor Memorial Bridge,

H. C. R. 103, French & Indian War Veterans Memorial Bridge,
And,

H. C. R. 105, U. S. Air Force Colonel Rishel C. Walker Memorial Bridge,

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

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 2, H. C. R. 6, H. C. R. 11, H. C. R. 27, H. C. R. 28, H. C. R. 40, H. C. R. 47, H. C. R. 51, H. C. R. 60, H. C. R. 63, H. C. R. 64, H. C. R. 66, H. C. R. 67, H. C. R. 68, H. C. R. 79, H. C. R. 80, H. C. R. 83, H. C. R. 88, H. C. R. 91, H. C. R. 92, H. C. R. 94, H. C. R. 99, H. C. R. 103 and H. C. R. 105) were referred to the Committee on Rules.

Messages from the Executive

The following communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, was read by the Clerk:

State of West Virginia
Jim Justice
Governor of West Virginia

February 24, 2020

Veto Message

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
Room 228M, Building 1

State Capitol Complex
1900 Kanawha Blvd., East
Charleston, West Virginia 25305.

Re: Enrolled Committee Substitute for House Bill 2086

Dear Speaker Hanshaw:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 2086 for technical reasons.

The Act adopts the Uniform Real Property Electronic Recording Act. This new law, among other things, creates a Real Property Electronic Recording Standards Advisory Committee to establish standards and practices to be used by West Virginia County Clerks when electronically recording deeds and other such documents. The introduced bill placed the responsibility to establish this committee with the Commissioner of the Division of Highways. The Senate Judiciary Committee amended the bill to place that responsibility with the Secretary of State. That change created some internal conflicts. A corrective floor amendment was filed electronically, but was not filed with the Senate Clerk's office. Therefore, it was never taken up to correct the internal conflicts. For this reason, I disapprove and return the bill. I urge the Legislature to correct this technical issue, and to return the bill to my desk for signature.

Sincerely,

Jim Justice,
Governor.

On motion of Delegate Summers, in accordance with Section 51, Article VI of the Constitution, the House of Delegates proceeded to reconsider Enrolled Committee Substitute for House Bill 2086, in an effort to meet the objections of the Governor.

An amendment offered by Delegate Shott, in an effort to meet the objections of the Governor, was reported by the Clerk and

adopted, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 4. UNIFORM REAL PROPERTY
ELECTRONIC RECORDING ACT.**

§39A-4-1. Short title.

This article may be cited as the Uniform Real Property Electronic Recording Act.

§39A-4-2. Definitions.

For purposes of this article, the following terms shall have the meanings stated below:

(1) ‘Document’ means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) Eligible to be recorded in the land records maintained by the clerk of the county commission, herein after ‘county clerk’ or ‘clerk’.

(2) ‘Electronic’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) ‘Electronic document’ means a document that is received by the county clerk in an electronic form.

(4) ‘Electronic signature’ means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) ‘Person’ means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental

subdivision, agency, instrumentality or any other legal or commercial entity.

(6) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

§39A-4-3. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying the requirements of this article.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature on a document that complies with the electronic notarization procedure under §39-4-19 of this code and §153 CSR 45.

§39A-4-4. Recording of documents.

(a) In this section, 'paper document' means a document that is received by the county clerk in a form that is not electronic.

(b) A county clerk:

(1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the Real Property Electronic Recording Standards Advisory Committee pursuant to §39A-4-5 of this code;

(2) May receive, index, store, archive, and transmit electronic documents;

(3) May provide for access to, and search and retrieval of, documents and information by electronic means;

(4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) May convert paper documents accepted for recording into electronic form;

(6) May convert information recorded before the clerk began to record electronic documents into electronic form;

(7) May accept electronically any fee or tax relating to electronic recording of real property documents that the clerk is authorized to collect; and

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

§39A-4-5. Administration and standards.

(a) For the purpose of keeping the standards and practices of county clerks in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act, and to keep the technology used by clerks in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the Secretary of State shall establish the Real Property Electronic Recording Standards Advisory Committee, developed pursuant to this article, to assist in the adoption, amendment, and repeal of standards and practices.

(b) The Secretary of State shall appoint at least 18 persons to serve on the committee. In selecting persons to serve on the committee, the Secretary of State shall appoint:

(1) At least one person who is an attorney who specializes in title work;

(2) At least one person who is a specialist in geographic information system (GIS) mapping;

(3) A representative of the Division of Highways;

(4) A representative of the County Clerks' Association;

(5) A representative of the County Commissioners' Association;

(6) A representative of the State Auditor;

(7) A representative of the Governor's Office of Technology;

(8) A representative of the Division of Culture and History;

(9) A representative of the Community Bankers of West Virginia;

(10) A representative of the West Virginia Bankers' Association;

(11) A representative of the West Virginia Housing Development Fund;

(12) A representative of the Real Estate Division of the Department of Administration;

(13) A representative of the Property Tax Division of the Department of Tax and Revenue;

(14) A representative of the West Virginia Board of Professional Surveyors;

(15) A representative of the West Virginia Real Estate Commission;

(16) At least one representative representing the mineral extraction industry;

(17) A representative of the West Virginia University College of Law with experience in real property law; and

(18) A representative of the Real Estate Lawyers Division of the West Virginia State Bar Association.

(c) In establishing, amending, and repealing standards and practices for the recording of documents in electronic form, storing electronic records, and setting up systems for searching for and retrieving these land records, the committee shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(d) The Secretary of State, or his or her designee, shall serve as chair of the Real Property Electronic Recording Standards Advisory Committee.

(e) The Secretary of State shall:

(1) Provide administrative support to the committee; and

(2) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code that contain the standards to implement this article.

(f) Each person, agency, board, and organization on the committee shall cover his or her own expenses necessitated by participation on the committee.

(g) The Secretary of State shall submit a report to the Joint Committee on Government and Finance on or before January 1 of each year until its tasks are complete. The report shall include its efforts to adopt standards in accordance with the requirements of this article and recommendations for further legislative action necessary to effectuate the purposes of this article.

§39A-4-6. Uniformity of application and construction.

In applying and construing the Uniform Real Property Electronic Recording Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§39A-4-7. Relation to electronic signatures in global and national commerce act.

This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. §7001, *et seq.*) but does not modify, limit or supersede §101(c) of that act (15 U.S.C. §7001(c)) or authorize electronic delivery of any of the notices described in §103(b) of that act (15 U.S.C. §7003(b)).”

On the question of passage of the bill, as amended in an effort to meet the objections of the Governor, the yeas and nays were taken (**Roll No. 376**), and there were—yeas 97, nays none, absent and not voting 3, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Angelucci, Atkinson, Azinger, Barnhart, Barrett, Bartlett, Bates, Bibby, Boggs, N. Brown, S. Brown, Butler, Byrd, Cadle, Campbell, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Diserio, Ellington, Espinosa, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Foster, Graves, Hamrick, Hanna, Hansen, Hardy, Hartman, Hicks, Higginbotham, Hill, Hornbuckle, Hott, Householder, Howell, D. Jeffries, J. Jeffries,

Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Lavender-Bowe, Linville, Little, Longstreth, Lovejoy, Mandt, C. Martin, P. Martin, Maynard, McGeehan, Miley, Miller, Nelson, Pack, Paynter, Pethel, Phillips, Porterfield, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Shott, Skaff, Sponaule, Staggers, Steele, Summers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Waxman, Westfall, Williams, Wilson, Zukoff and Hanshaw (Mr. Speaker).

Nays: None.

Absent and Not Voting: Doyle, Storch and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr. Com. Sub. for H. B. 2086) passed, as a result of the objections of the Governor.

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 3039, Relating to a court's consideration of the expression of a preference by a child in certain child custody matters.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further title amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 10. GUARDIANS AND WARDS GENERALLY.**§44-10-4. Right of minor to nominate guardian.**

(a) If the minor is above the age of fourteen years, he or she may in the presence of the circuit or family court, or in writing acknowledged before any officer authorized to take the acknowledgment of a deed, nominate his or her own guardian, who, if approved by the court, shall be appointed accordingly.

(b) If the minor is below the age of fourteen years and, if the court determines it is in the best interests of the minor, the court may consider the firm and reasonable preferences of a minor who, in the discretion of the court, is sufficiently matured that he or she can intelligently express a preference. He or she may in the presence of the circuit or family court, or in writing acknowledged before any officer authorized to take the acknowledgment of a deed, nominate his or her own guardian, who, if approved by the court, after giving that preference the weight warranted by the circumstances, shall be appointed accordingly.

~~(b)~~ (c) If the guardian nominated by the minor is not appointed by the court, or if the minor resides outside the state, or if, after being summoned, the minor neglects to nominate a suitable person, the court may appoint the guardian in the same manner as if the minor were under the age of fourteen years.

CHAPTER 48. DOMESTIC RELATIONS.**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.****§48-9-206. Allocation of custodial responsibility.**

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent may be expected to achieve any of the following objectives:

(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;

(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and ~~with regard to~~ accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent, ~~to give that preference the weight warranted by the circumstances;~~

(3) To keep siblings together when the court finds that doing so is necessary to their welfare;

(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;

(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;

(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(7) To apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section;

(8) To consider the stage of a child's development; and

(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

(b) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties.

(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed.

(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of change circumstances required by §48-9-401(a) if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; or

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of fourteen; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of fourteen and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference.

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.”

And,

By amending the title of the bill to read as follows:

H. B. 3039 - “A Bill to amend and reenact §44-10-4, §48-9-206, and §48-9-402 of the Code of West Virginia, 1931, as amended, all relating to a court's consideration of the right of a minor to nominate his or her guardian and to a court's consideration of the expression of a preference by a child in certain child custody matters; and giving the court discretion to consider the preferences of a child under the age of fourteen years who is

sufficiently matured that he or she can intelligently express a voluntary preference.”

With the further title amendment, offered by Delegate Shott, being as follows:

H. B. 3039 - “A Bill to amend and reenact §44-10-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-9-206 and §48-9-402 of said code, all relating to a court’s consideration of the right of a minor to nominate his or her guardian and to a court’s consideration of the expression of a preference by a child in certain child custody matters; and giving the court discretion to consider the preferences of a child under the age of fourteen years who is sufficiently matured that he or she can intelligently express a voluntary preference.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 377**), and there were—yeas 83, nays 16, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: S. Brown, Canestraro, Doyle, Fleischauer, Fluharty, Hansen, Hicks, Miley, Miller, Robinson, Rowe, Sponaugle, Storch, C. Thompson, Walker and Zukoff.

Absent and Not Voting: Worrell.

So, a majority of the members elected to the House having voted in the affirmative, the Speaker declared the bill (H. B. 3039) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4149, Relating to insurance.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

One page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4. GENERAL PROVISIONS.

§33-4-2. Application of chapter to particular types of insurers.

(a) No provision of this chapter shall apply to:

(1) Hospital service corporations and medical service corporations except as stated in §33-24-1 *et seq.* of this code;

(2) Fraternal benefit societies except as stated in §33-23-1 *et seq.* of this code;

(3) Farmers’ mutual fire insurance companies except as stated in §33-22-1 *et seq.* of this code;

(4) Warranties;

(5) Service contracts;

(6) Maintenance agreements.

(b) For the purposes of this article:

(1) ‘Holder’ means a resident of this state who either purchases a service agreement or is legally in possession of a service contract and is entitled to enforce the rights of the original purchaser of the service contract.

(2) ‘Incidental costs’ means expenses specified in a vehicle protection product warranty that are incurred by the warranty holder due to the failure of a vehicle protection product to perform as provided in the contract. Incidental costs may be reimbursed in either a fixed amount specified in the vehicle protection product

warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder.

(2) (3) 'Maintenance agreement' means a contract for a limited period that provides only for scheduled maintenance.

(3) (4) 'Provider' means a person who is obligated to a holder pursuant to the terms of a service contract to repair, replace, or perform maintenance on or to indemnify the holder for the costs of repairing, replacing, or performing maintenance on goods.

(5) 'Road hazard' means a hazard that is encountered while driving a motor vehicle, which may include potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(4) (6) 'Service contract' means an agreement entered into for a separately stated consideration and for a specified term under which a provider agrees to repair, replace, or maintain a product or provide indemnification for the repair, replacement, or maintenance of a product for operational or structural failure caused by a defect in materials or workmanship or by normal wear. A service contract may additionally provide for incidental payment or indemnity under limited circumstances, including towing, rental, and emergency road service or for the repair or replacement of a product for damage resulting from power surges or accidental damage incurred in handling the product. 'Service contract' includes a contract or agreement that provides for one or more of the following:

(A) The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(B) The removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(C) The repair of chips or cracks in, or the replacement of, motor vehicle windshields as a result of damage caused by road hazards;

(D) The replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen;

(E) The repair of damage to the interior components of a motor vehicle caused by wear and tear;

(F) The cosmetic repair of minor damage such as scuffs, scratches, scrapes, or rash on exterior surfaces of a motor vehicle;
or

(G) In conjunction with a motor vehicle leased for use, the repair, replacement, or maintenance of property, or indemnification for repair, replacement, or maintenance, due to excess wear and use, damage for items such as tires, paint cracks or chips, interior stains, rips or scratches, exterior dents or scratches, windshield cracks or chips, missing interior or exterior parts, or excess mileage that result in a lease-end charge, or any other charge for damage that is deemed as excess wear and use by a lessor under a motor vehicle lease, provided any such payment does not exceed the purchase price of the vehicle.

(7) ‘Vehicle protection product’ means a protective chemical, substance, device, or system that: (A) is installed on or applied to a motor vehicle; (B) is designed to prevent loss or damage to a motor vehicle from a specific cause; and (C) includes a vehicle protection product warranty. ‘Vehicle protection product’ does not include fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system.

(8) ‘Vehicle protection product warranty’ means a warranty that provides that if the vehicle protection product fails to prevent loss or damage to a motor vehicle from a specific cause, the warrantor will pay to or on behalf of the warranty holder specified incidental costs as a result of the failure of the vehicle protection product to perform pursuant to the terms of the vehicle protection product warranty.

(5) (9) ‘Warranty’ means in relation to a product or service an undertaking that guarantees indemnity for defective parts,

mechanical or electrical breakdown, labor costs, or other remedial measures, such as repair or replacement of the product or repetition of services, and that is made solely by the manufacturer, importer, or seller of the product or services made without payment of additional consideration, not negotiated or separated from the sale of the product or service and incidental to the sale of the product or service. ‘Warranty’ includes a vehicle protection product warranty.”

And by amending the title of the bill to read as follows:

H. B. 4149 - “A Bill to amend and reenact §33-4-2 of the Code of West Virginia, 1931, as amended, relating to insurance; clarifying when insurance code chapter provisions are not applicable; adding definitions; and clarifying ‘service contract’ and ‘warranty’ definitions.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 378**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4149) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, with amendment, and changed the effective date, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

H. B. 4359, Modifying the filing fees for insurers.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section thirty-four, lines one through three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

“(a) As used in this section, ‘filing’ means any form filing made pursuant to §33-6-8 of this code or any rule or rate filing made pursuant to this chapter.”

And,

On page one, section thirty-four, line eleven, after the word “refunded”, by inserting a comma.

And,

By amending the title of the bill to read as follows:

H. B. 4359 - “A Bill to amend and reenact §33-6-34 of the Code of West Virginia, 1931, as amended, relating to modifying the filing fees for insurers; permitting multiple insurers to make a single filing with a fee collected from each insurer; defining ‘filing’; and deleting language.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Hanna, Hill, J. Jeffries, Lavender-Bowe, Maynard and Paynter.

Absent and Not Voting: Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4359) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 380**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Howell, J. Jeffries and Paynter.

Absent and Not Voting: Worrell.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, and changed the effective date, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 4501, Relating to the ability to refuse offenders for commitment to a jail.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 15A. DEPARTMENT OF MILITARY
AFFAIRS AND PUBLIC SAFETY.**

ARTICLE 5. BUREAU OF PRISONS AND JAILS.

§15A-5-9. Ability to refuse offenders.

(a) Notwithstanding any other provision of this code, the commissioner, or any employee or agent of the division, having authority to accept offenders in a jail is not required to accept those offenders if an offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until a written clearance is received from a licensed physician reflecting that the offender has been examined

and if necessary treated, and which states that it is the physician's medical opinion that the offender can be safely housed in a jail.

(b) Notwithstanding the provisions of subsection (a) of this section, the division, the commissioner, or any employee or agent of the division, may accept an offender into custody who appears to be in need of medical attention of a degree necessitating treatment by a licensed medical professional, who refuses a medical examination or medical treatment to a licensed medical professional, and is immune from civil or criminal liability for accepting the person into custody.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1C. BAIL.

§62-1C-14. Bailpiece; issuance to surety; taking accused into custody.

(a) A bailpiece is a certificate stating that the bail became such for the accused in a particular case and the amount thereof. Upon demand therefor, the court, magistrate, or clerk shall issue to the bail bondsperson a bailpiece. Any officer having authority to execute a warrant of arrest shall assist the bail bondsperson holding such bailpiece to take the accused into custody and produce him or her before the court or magistrate. The bail bondsperson may take the accused into custody and surrender him or her to the court or magistrate without such bailpiece.

(b) If bailpiece is inaccessible due to unavailability of the court's circuit clerk or magistrate, the bail bondsperson, or his or her designee, can take an offender to a regional ~~or county~~ jail without bailpiece, and the jail must accept the offender, provided:

(1) The bail bondsperson, or his or her designee, delivering an offender to a jail without a bailpiece issued by the court's circuit clerk or magistrate appears on the registered list maintained at the jails and approved by the court of original jurisdiction;

(2) The bail bondsperson signs an agreement provided by the jail indicating that the offender has been booked in lieu of

bailpiece. Such agreement shall contain a clause indicating the incarceration of such offender is lawful and that the jail accepting the offender shall be held harmless from any claims of illegal incarceration or other relative charges; thereby, such bail bondsperson assumes the risk and liability of such incarceration; and

(3) Bailpiece must be applied for by the bail bondsperson or his or her designee from the court's circuit clerk or magistrate and hand-delivered by the bail bondsperson or his or her designee to the jail housing such offender on the next judicial day following the initial intake.

(c) Any bail bondsperson who willfully fails to attempt to obtain the appropriate bailpiece within the allotted time period provided in subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be prohibited from continuing to conduct business in this state and shall be fined not more than \$1,000 and confined in the regional-~~or county~~ jail not more than one year.

(d) No officer, jailer, or other person having authority to accept offenders in a ~~county or~~ regional jail is required to accept such offenders being housed in lieu of bailpiece except as set forth in §15A-5-9 of this code. ~~if such offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until the bail bondsperson, or his or her designee, provides the jailer or persons accepting such offender with a written clearance from a licensed physician reflecting that the offender has been examined and, if necessary, treated, and which states that it is the physician's medical opinion that the offender can be safely confined in the county or regional jail~~

(e) The ~~Regional Jail Authority~~ Division of Corrections and Rehabilitation, the county sheriff, county commission, or any of their agents or employees, shall be immune from liability for any claims of illegal incarceration or other relative charges for any offender accepted into a facility under this section.

**ARTICLE 6. MISCELLANEOUS PROVISIONS
CONCERNING CRIMINAL PROCEDURES.**

§62-6-6a. Disposition of prisoners.

[Repealed]”

And,

By amending the title of the bill to read as follows:

H. B. 4501 - “A Bill to repeal §62-6-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §15A-5-9 of said code; and to amend and reenact §62-1C-14 of said code, all relating to the ability to refuse offenders for commitment to a jail; authorizing the acceptance of certain offenders refusing ordered examination or medical treatment; granting civil and criminal immunity to the division, the commissioner, employees and agents of the division for accepting offenders who refuse a medical examination or medical treatment; and clarifying conditions and circumstances under which division employees accept or refuse to accept offenders brought to a regional jail pursuant to a bailpiece.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 381**), and there were—yeas 81, nays 18, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, S. Brown, Canestraro, Caputo, Evans, Fast, Fleischauer, Fluharty, Hicks, Lavender-Bowe, Longstreth, Pushkin, Robinson, Rowe, Sponaugle, Steele and Walker.

Absent and Not Voting: Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4501) passed.

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

On this question, the yeas and nays were taken (**Roll No. 382**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fast, Steele and Walker.

Absent and Not Voting: Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4501) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for S. B. 28 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-19, relating to permitting West Virginia Board of Medicine investigators to carry a concealed weapon; establishing procedures and criteria for allowing investigators to carry a concealed weapon; and limiting liability for good faith acts or omissions”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 38 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9a, relating to allowing county boards of education to offer students in grade nine or above an elective social studies course on sacred texts or comparative world religions; permitting a student to use a

translation of his or her choice; requiring county board of education to submit to the West Virginia Department of Education the course standards, including the teacher qualifications and required professional development; and imposing requirements applicable to the course, the county board of education, and the State Board of Education”; which was referred to the Committee on Education then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 66 - “A Bill to amend and reenact §24-6-12 and §24A-2-2b of the Code of West Virginia, 1931, as amended, all relating to emergency towing services; requiring county commissions to create districts whereby towing services within a district may be dispatched or implement a policy whereby all available towing services within an area currently served by an organization are dispatched on a rotating basis; defining a term; and eliminating sunset and legislative review provisions”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 120 - “A Bill to amend and reenact §22-10-6 of the Code of West Virginia, 1931, as amended, relating to the establishment of priorities for expenditures for plugging abandoned gas or oil wells; and to require money that results from the forfeiture of an oil and gas operator’s bond as a result of the operator’s failure to plug a well or otherwise comply with state statutes and rules to first be applied to correct or mitigate an immediate threat to the environment or hindrance or impediment to the development of mineral resources of this state that caused the forfeiture of the bond”; which was referred to the Committee on Energy.

A message from the Senate, by

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

Com. Sub. for S. B. 160 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-33c, relating to West Virginia University Rifle Team electronic application donation program; including solicitation for voluntary donation to West Virginia University Rifle Team on application for hunting or fishing electronic license; providing opportunity to designate donation in any amount; creating special account; establishing funding sources; specifying terms for expenditures; authorizing disbursements and administrative fee; and requiring annual reports”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 193 - “A Bill to amend and reenact §5A-3-10 of the Code of West Virginia, 1931, as amended, relating to establishing deadlines for spending units to submit procurements to the Purchasing Division when a continuing procurement for goods and services exceeds \$1 million”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 269 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, and §16-5AA-6, all relating to establishing an advisory council on rare diseases; creating the advisory council and its composition; setting terms of members; defining terms; defining

duties, subject to the availability of resources; defining powers of the advisory council; setting out particular discretionary duties of the Secretary of the Department of Health and Human Resources; and establishing a special revenue account”; which was referred to the Committee on Health and Human Resources then Government Organization.

A message from the Senate, by

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

S. B. 278 - “A Bill to amend and reenact §27-6A-3 of the Code of West Virginia, 1931, as amended, relating to a defendant’s competency to stand trial; and actions of the circuit judge”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 312 - “A Bill to amend and reenact §30-30-16 and §30-30-18 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-30-30, all relating to provisional licensure requirements for social workers; creating licensure exception for Bureau for Children and Families service workers; permitting emergency rulemaking; creating registration process for service workers employed by the Bureau for Children and Families; providing deadline for conversion of license to registry; and setting forth registration eligibility criteria and continuing education requirements”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 355 - “A Bill to amend and reenact §64-6-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Fire Commission to promulgate a legislative rule relating to State Fire Code”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 513 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6O-1, §46A-6O-2, §46A-6O-3, §46A-6O-4, §46A-6O-5, and §46A-6O-6, all relating to automatic purchase renewal offers and continuous service offers; stating legislative intent; defining terms; setting notice and disclosure requirements for automatic purchase renewal offers and continuous service offers; providing that a business may not charge the consumer for an automatic renewal or continuous services without first obtaining the consumer’s affirmative consent; providing acknowledgement requirements; providing that a business shall disclose how to cancel the automatic renewal or continuous service before the consumer pays if the offer includes a free gift or trial; providing that a business shall provide certain mechanisms for cancellation of the automatic renewal or continuous offer in the acknowledgement; requiring a business to provide contact information to the consumer; providing means for terminating the automatic renewal or continuous service offer online; providing notice requirements in the case of material changes in the terms of the automatic renewal or continuous service; providing that a business shall provide to the consumer a reminder of the recurring charge and information on how the consumer may cancel at least 30 days prior to the charge in the case of automatic renewal or continuous service offers of certain frequency; providing a period of application; providing that goods, wares, merchandise, or products shall be deemed an unconditional gift to the consumer when the business sends any goods, wares, merchandise, or products to a consumer without first obtaining the consumer’s affirmative consent under a continuous service agreement or

automatic renewal of a purchase; providing a civil cause of action; providing statutory penalties; providing that no action may be brought until written notice is provided by the consumer, or his or her representative, to the business; providing written notice requirements; providing mailing requirements; providing the business an opportunity to cure the alleged violation; providing for expiration of the cure offer and cure period; providing a period for the business to remit payment, if any, as specified in the accepted cure offer; providing that a claim may be brought for failure of the business to timely effect the accepted cure offer; providing that the written notice is a jurisdictional prerequisite to bringing a cause of action; prohibiting certification of certain class action litigation; providing the court discretion to award plaintiff costs of the action, including reasonable attorney's fees; providing that plaintiff is not entitled to costs and attorney's fees under certain circumstances; providing a statute of limitations; providing that the statute of limitations shall be tolled; and stating exemptions"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 521 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-9A-1, §5-9A-2, §5-9A-3, and §5-9A-4, all relating to job creation and economic incentives; requiring Secretary of Commerce to review all tax and economic incentives; establishing guidelines for review of incentives; requiring annual report; providing confidentiality provisions; and defining terms"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 616 - "A Bill to amend and reenact §6C-2-3 and §6C-2-6 of the Code of West Virginia, 1931, as amended,

all relating generally to the employment grievance procedure for public employees; limiting the number of grievances in which an employee representative may participate per year; clarifying the amount of time an employee may spend during work hours for grievance preparation; providing that employees and employee representatives may not use state vehicles to travel to and from grievance proceedings or grievance preparation activities; and eliminating provisions authorizing a grievant to recover court costs and attorney's fees for certain grievance proceedings"; which was referred to the Committee on Government Organization then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 648 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-12a, relating to providing dental coverage for adult Medicaid recipients; providing limitations; defining terms; designating the Department of Health and Human Resources as the responsible department to implement these provisions; providing effective date; providing for the Department of Health and Human Resources to seek authority for the Centers for Medicare and Medicaid Services to implement the program; and making the provisions of the section effective only upon approval by Centers for Medicare and Medicaid Services of specified provider taxes"; which was referred to the Committee on Health and Human Resources then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 653 - "A Bill to amend and reenact §50-1-2 and §50-1-6 of the Code of West Virginia, 1931, as amended, all relating generally to magistrate courts; establishing the number of magistrates to serve in each county of the state; increasing the

number of magistrates to serve in certain counties beginning on January 1, 2021; and providing for the initial filling of vacancies in newly created magisterial offices”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

S. B. 680 - “A Bill to amend and reenact §18-2E-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18C-9-3 of said code, all relating to qualifying not-for-profit private baccalaureate institutions for the Advanced Career Education programs and the West Virginia Invests Grant Program”; which was referred to the Committee on Education then Finance.

A message from the Senate, by

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

S. B. 687 - “A Bill to amend and reenact §7-7-4 of the Code of West Virginia, 1931, as amended, relating to increasing the compensation of elected county officials”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 690 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-13-1, relating to the operation of street-legal special purpose vehicles; permitting the operation of street-legal special purpose vehicles on highways; providing for registration of street-legal special purpose vehicles; establishing licensing and equipment requirements for street-legal special purpose vehicles;

defining terms; and requiring rulemaking”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 700 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-2-10, relating to permitting allopathic and osteopathic physicians to be exempt from specified traffic laws in emergency situations when responding to an emergency call and displaying emblem; providing that physicians must still exercise due care for safety; and providing for rulemaking”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 710 - “A Bill to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §30-3-13b; to amend and reenact §30-14-12d of said code; and to amend said code by adding thereto a new section, designated §30-14-12e, all relating to practice of telemedicine; establishing a pilot program for members of the Public Employees Insurance Agency; setting a sunset date for pilot program; providing for use of audio-only engagement in certain circumstances; and providing for an independent audit”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 711 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-4-726, relating to directing the Secretaries of the Department of Health and Human Resources, the Department of Military Affairs and Public Safety, and requesting that the Juvenile Justice Commission of the Supreme Court of Appeals to collaborate and undertake an investigation of numerous issues related to juvenile justice, juvenile competency, and procedures for dealing with juveniles found incompetent to assist counsel in proceedings against them; and are determined to be nonrestorable; requiring certain recommendations and proposed legislation; and requiring the report and proposed legislation be supplied to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 716 - “A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to requiring Department of Health and Human Resources to make payment for tubal ligation without requiring at least 30 days between the date of informed consent and date of the tubal ligation procedure”; which was referred to the Committee on Health and Human Resources then Finance.

A message from the Senate, by

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

S. B. 732 - “A Bill to amend and reenact §29-21-2 of the Code of West Virginia, 1931, as amended, relating to authorizing the payment of fees and reimbursement of expenses of attorneys who participate on court teams or advisory bodies of specialty courts established by the Supreme Court of Appeals”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 738 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-9-1, relating to creating the Flatwater Trail Commission; describing role, function, and duties of the commission; establishing criteria qualifications for the appointment of members; specifying duties; declaring the responsibilities of the Department of Commerce regarding the commission; providing for reimbursement of the expenses for members; and defining a quorum to conduct business”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 739 - “A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-18 of said code; to amend and reenact §8-19-4 of said code; to amend and reenact §8-20-10 of said code; to amend and reenact §16-13-16 of said code; to amend and reenact §16-13A-9 of said code; to amend and reenact §24-2-1, §24-2-4a, and §24-2-11 of said code; to amend said code by adding thereto a new article, designated §24-2H-1, §24-2H-2, §24-2H-3, §24-2H-4, §24-2H-5, §24-2H-6, §24-2H-7, §24-2H-8, and §24-2H-9; and to amend and reenact §31-15A-9 of said code, all relating to authorizing the Public Service Commission to protect the consumers of distressed and failing water and wastewater utilities by ordering various corrective measures up to and including acquisition of a failing utility by a capable water or wastewater utility; clarifying Public Service Commission jurisdiction over water and sewer utilities owned by political subdivisions; establishing uniformity in the class of publications required by municipalities and public service districts for the revision in rates; providing a time period for the filing of and resolution of

complaints filed at the Public Service Commission regarding actions of public service districts and municipalities; cleaning up language regarding reference to other sections of the code regarding notice requirements for municipal utilities; regarding time period pertaining to the filing of appeals and the resolution of appeals for rate and construction projects decided by county commissions; adding language to allow the commission to order the acquisition of failing water and wastewater utilities; and allowing water and/or wastewater utilities access to public funds at below market-rates and grants to repair, replace, and improve acquired failing utilities”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 745 - “A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to the creation of an exemption to the State Sales and Use Tax for the rental of equipment among corporations with a minimum of 50 percent common ownership”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 750 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7d, relating to establishing extended learning opportunities to include alternative educational opportunities for elective course credit; requiring the state board to develop a policy for the approval of eligible programs and to promulgate a rule; and recognizing that county boards may authorize alternative educational opportunity programs and audit the same”; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 752 - “A Bill to repeal §16A-4-2 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4 of said code; to repeal §16A-13-1 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-3-1, §16A-3-2, §16A-3-3, and §16A-3-5 of said code; to amend and reenact §16A-4-3 and §16A-4-5 of said code; to amend and reenact §16A-5-1 of said code; to amend and reenact §16A-6-2, §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said code; to amend said code by adding thereto a new section, designated §16A-6-14; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-2 of said code; to amend and reenact §16A-12-2, §16A-12-7, and §16A-12-8 of said code; to amend and reenact §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, and §16A-13-8 of said code; to amend and reenact §16A-14-1, §16A-14-2, and §16A-14-3 of said code; and to amend and reenact §16A-15-2 and §16A-15-4 of said code, all relating to medical cannabis generally; defining terms; authorizing the Commissioner of the Bureau for Public Health to approve additions to the forms of lawful medical cannabis which may be used and the conditions for which medical cannabis use is authorized pursuant to recommendations of the Medical Cannabis Advisory Board; adding certain qualifying medical conditions; removing requirement for training course for physicians; requiring an eight-hour training course for principals and employees; providing unlawful use of medical cannabis is subject to the criminal code; removing restriction on dispensing dry leaf or plant form medical cannabis to a patient by a caregiver; clarifying public officials and family members who cannot own or operate medical cannabis organizations; requiring employees of medical cannabis organizations to be registered and establishing a registration fee; authorizing the commissioner to enter into reciprocity agreements with other jurisdictions for terminally ill cancer patients; authorizing the commissioner to promulgate rules relating to 30-day supplies of medical cannabis; lowering fee to for replacement patient identification card; modifying criminal

background check requirement for 5 percent ownership or less in privately held business entity and for publicly held entities; modifying permit fee for each medical cannabis organization location; removing the residency requirement for medical cannabis organization owners, operators, shareholders, partners, and members; adding certain convictions which preclude participation as or in a medical cannabis organization; clarifying that the Tax Division of the Department of Revenue is charged with monitoring medical cannabis pricing; removing requirement that the bureau must obtain approval of local boards of health for medical cannabis organizations; modifying and clarifying the distance a medical cannabis dispensary must be from certain educational facilities; modifying and clarifying entities engaged in medical cannabis research subject to nondisclosure provisions; removing requirement that certain federal agencies must preapprove medical cannabis research projects; authorizing accredited colleges, universities, and medical schools to be eligible to engage in approved medical cannabis research; clarifying that the governing body of an academic clinical research center must approve the institution's participation in a medical cannabis research project; requiring report of research sent to the bureau be made public within 180 days; increasing the number of clinical registrants; clarifying that only those public officials directly involved in the administrations of the medical cannabis program are prohibited from having a monetary interest in a medical cannabis organization; and adding accredited educational institutions engaged in research to the list of persons, entities, and organizations exempt from licensure, discipline for lawful use, possession, or manufacture of medical cannabis"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 758 - "A Bill to amend and reenact §16-4C-5 of the Code of West Virginia, 1931, as amended, relating to the authority of the Emergency Medical Services Advisory Council in reviewing rules proposed by the Commissioner of the Bureau for Public Health

under the Emergency Medical Services Act”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 762 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7g; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated §33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; and to amend said code by adding thereto a new section, designated §33-25A-8u, all relating to creating the Preserving Patient Stability Act of 2020; setting forth definitions; prohibiting nonmedical switching of biological products; recognizing exemptions; providing effective date; and providing for enforcement”; which was referred to the Committee on Health and Human Resources then Finance.

A message from the Senate, by

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

S. B. 765 - “A Bill to amend and reenact §61-11-18 and §61-11-19 of the Code of West Virginia, 1931, as amended, all relating to provisions of the Habitual Offender statute; and modifying provisions addressing eligibility of certain crimes for consideration, expiration of sentence prior to being considered, ineligibility for good time calculation, and eligibility for dual treatment under section allowing enhanced sentencing for second or subsequent offenses”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 785 - “A Bill to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating to prohibiting electioneering within 100 feet from the outside entrance of community voting locations during early voting periods”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 797 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-19; to amend and reenact §17C-1-6 of said code; and to amend and reenact §30-29-1, §30-29-5, and §30-29-8 of said code, all relating generally to the authorization by governing boards of public and private hospitals to appoint and employ hospital police officers; providing for the qualifications, training, authority, compensation, and removal of hospital police officers; providing for the assistance of local law-enforcement agencies upon request; and providing limitations on liability of hospital police officers”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 802 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-20, relating generally to the regulation of public utilities; providing legislative findings; providing that certain large volume end users may receive natural gas service without the permission, consent, control, review, or input of the West Virginia Public Service Commission; providing that the end user shall make certain certifications to the commission; providing that the commission shall receive, file, and retain all end user certifications; providing that no person, entity, or body shall be a public utility, intrastate pipeline, common carrier, or otherwise subject to the

jurisdiction of the commission as a result of supplying such end users; and providing that provisions shall not prevent or impede the commission's safety regulation of pipelines"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 810 - "A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to adoption of a state plan implementing the federal Affordable Clean Energy rule pursuant to section 111(d) of the federal Clean Air Act"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 820 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-2A-2, relating to authorizing the Department of Health and Human Resources to transfer comprehensive community mental health centers and comprehensive intellectual disability facilities to regional mental health centers or regional intellectual disability facilities"; which was referred to the Committee on Health and Human Resources then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 821 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1, §55-7K-2, and §55-7K-3, all relating to providing immunity from civil liability to facilities and employees providing drug and alcohol detoxification services, substance use

disorder services, drug overdose services on a short-term basis, or crisis stabilization services related to drug and alcohol detoxification services, substance use disorder services, drug overdose services on a short-term basis; establishing an effective date of July 1, 2020, for newly amended sections; and detailing the relationship of this article with §55-7B-1”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 829 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2I-9, relating to establishing the Overland Recreation Fund as a special fund; specifying the purposes for which the fund may be used; and defining terms”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 830 - “A Bill to repeal §5-5-4a of the Code of West Virginia, 1931, as amended, relating to eliminating a special merit-based employment system for health care professionals in state-operated health care facilities”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

S. B. 832 - “A Bill to repeal §11-9-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-3, §11-15-4, §11-15-4a, §11-15-4b, and §11-15-13 of said code; and to amend and reenact §11-15A-5, §11-15A-6, and §11-15A-8 of

said code, all relating to permitting retailers to assume or absorb any sales or use tax assessed on tangible personal property”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 839 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1D-11, relating to creating the State Advisory Council on Postsecondary Attainment Goals; designating members of the council; providing for the powers and duties of the council; requiring certain state agencies to cooperate with the council; and establishing a sunset date for the council”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

S. B. 840 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-6A-7A, relating to modifications of well work permits issued by the Department of Environmental Protection’s Office of Oil and Gas”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

S. B. 841 - “A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended, relating to requiring the Governor to fix the salaries of certain state-appointed officers after the office is vacated or after July 1, 2020, whichever occurs first; providing for an effective date; and requiring the salary be included

in appointment letter”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 842 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, all relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in two county school districts for the duration of five years; setting forth criteria to be used in the selection of the two county school districts; allowing the two county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene a committee consisting of certain school personnel and the education organizations to establish qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report to the Legislative Oversight Commission on Education Accountability”; which was referred to the Committee on Education.

A message from the Senate, by

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

S. B. 846 - “A Bill to amend and reenact §16-5B-16 of the Code of West Virginia, 1931, as amended, relating to requiring a hospital to publish notification prior to facility closure regarding patient medical records, including films; requiring publication to take place upon closure; requiring publication to take place upon change in location of patient medical records; providing time frame to respond to patient request for medical records; providing penalty; and providing effective date”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 847 - “A Bill to amend and reenact §60A-2-204 and §60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to updating the controlled substance lists in Schedules I and V”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 848 - “A Bill to amend and reenact §62-16-5 of the Code of West Virginia, 1931, as amended, relating to providing that persons charged with certain offenses related to driving under the influence of alcohol or drugs are not eligible to participate in the Military Service Members Court”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 849 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-40, relating to military service as a factor in certain insurance coverage rates generally; prohibiting an insurance company from increasing premiums when reinstating an insurance contract; writing a new policy that was previously cancelled or suspended due to active duty military service of the insured; defining terms; and creating presumption of continuous coverage when lapse occurs while insured is on active duty.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 849) to a committee

was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. B. 850 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-11-21, relating to prohibiting racial discrimination based on certain hair textures and hairstyles”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 851 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9-7, relating to requiring the Governor’s Committee on Crime, Delinquency, and Correction to propose a legislative rule in coordination with law enforcement and certain medical boards; developing policies and protocols for law enforcement and medical professionals to create treatment referral programs for persons suffering from substance use disorder; setting forth requirements for policies and protocols; providing that existing criminal charges not affected; providing civil immunity for law-enforcement officers and medical professionals; and requiring proposal of legislative and emergency rules”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Shott, Ellington, Paynter and Evans offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 122 - “Requesting the Division of Highways to name a two-mile portion of U.S. Route 460 between its intersection with

Bland Rd., otherwise known as WV Route 598, and its intersection with U.S. Route 52 in Mercer County, the ‘Eustace Frederick Memorial Road’.”

Whereas, Eustace Frederick was born the son of Russian immigrant parents on August 29, 1930, in “a four-room shack” in Delta Hollow near Switchback, McDowell County, West Virginia; and

Whereas, A graduate of Elkhorn High School in 1948 where his excellence in football earned him a scholarship from Virginia Polytechnical Institute (now “Virginia Tech”) where he played for four years, graduating with a degree in mining engineering in 1952; and

Whereas, Eustace Frederick served his country as a communications officer in the U.S. Air Force during the Korean War; and

Whereas, Eustace Frederick accepted a job with Consolidation Coal Company and rapidly rose through its ranks, retiring in 1992 as Senior Vice President of its Southern Appalachian Region after over forty years of service; and

Whereas, During his employment with Consolidation Coal Company, Eustace Frederick was an innovator and a champion of safety advances in coal mining, including the development of a coalbed methane venting process that reduced the danger of explosions in deep coal mines; and

Whereas, His leadership in the coal industry resulted in Eustace Frederick being awarded the Ralph E. Bailey Safety Trophy twice by Consolidation Coal Company, and being recognized by the West Virginia Coal Association with an induction into their Coal Hall of Fame; and

Whereas, Following his retirement, Governor Gaston Caperton appointed him to the West Virginia House of Delegates in 1993 to fill an unexpired term, and he was successfully reelected to that post in seven consecutive elections before he chose not to run

following the conclusion of the regular 2008 Legislative Session due to health concerns; and

Whereas, His passion for the safety and livelihood of West Virginia's coal miners continued throughout his political career; and

Whereas, In addition to his elective service, Eustace Frederick was active in many community organizations, including the Greater Bluefield Chamber of Commerce, which awarded him its highest honor, the Robert Francis Hamilton Award for superior community service; and

Whereas, Eustace Frederick was a lifelong member and devout supporter of Saint Mary's Orthodox Church in Bluefield, and for his outstanding service was selected to be an Archon in the Order Of Saint Andrew; and

Whereas, Eustace Frederick, died at his residence on Thursday, November 6, 2008, at the age of 78; and

Whereas, Eustace Frederick was survived by one son, Eustace ("Stacy") Frederick III of Bluefield, WV; one daughter, Carrie Frederick Frost and her husband Matthew of Charlottesville, VA; five grandchildren of whom he was particularly proud and his dear friend and companion, Shirley Ofsa of Bluefield, VA; and

Whereas, Naming a segment of this highway leading to the church that he was instrumental in building is an appropriate recognition of his many contributions to his country, state, and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a two-mile portion of U.S. Route 460 between its intersection with Bland Rd., otherwise known as WV Route 598, and its intersection with U.S. Route 52 in Mercer County, the "Eustace Frederick Memorial Road"; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying the road as the “Delegate Eustace Frederick Memorial Road”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegate Fleischauer offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 123 - “Requesting the Division of Highways name bridge number 31-119-13.78 (31A197), locally known as the South University Avenue Bridge, carrying U.S. Route 119 over Deckers Creek in Monongalia County, the ‘John W. Pyles Bridge’.”

Whereas, John W. Pyles was born in Flemington, Taylor County, West Virginia, in 1933, where his father was employed by the B&O Railroad as a trackman and the family later moved to Morgantown, West Virginia, where his father took a job working in a coal mine at Maudsville; and

Whereas, John W. Pyles attended the public schools in Monongalia County and graduated from Morgantown High School in 1950, and attended West Virginia University, graduating with a bachelor’s degree in 1955 and a master’s degree in 1960; and

Whereas, John W. Pyles taught music in the public schools of Monongalia County, serving as a band director at Sabraton and Westover Junior High Schools, and he was a traveling music teacher serving several elementary schools in the county; and

Whereas, John W. Pyles was elected to the West Virginia House of Delegates in 1962 and 1964, serving from 1963 to 1966; and

Whereas, John W. Pyles was elected as County Assessor of Monongalia County in 1968, and served five terms from 1969 to 1988; and

Whereas, John W. Pyles was elected as County Commissioner for Monongalia County in 1990, and served three terms from 1991 to 2008; and

Whereas, It is fitting that his contributions to his community be recognized by the dedication of a notable structure in his honor; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 31-119-13.78 (31A197), locally known as the South University Avenue Bridge, carrying U.S. Route 119 over Deckers Creek in Monongalia County, the “John W. Pyles Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “John W. Pyles Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegate Summers offered the following resolution, which was reported by the Clerk:

H. C. R. 124 - “Extending the Committee of Conference relating to consideration of **Com. Sub. for H. B. 4275**, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.”

Resolved by the Legislature of West Virginia:

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three day for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 4275.

At the respective requests of Delegate Summers, and by unanimous consent, reference of the resolution (H. C. R. 124) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was then read by the Clerk and adopted.

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

Motions

Delegate Summers asked and obtained unanimous consent that, for the remainder of the session, members of Conference Committees be permitted to vote on any question or issue before the House which they have missed as a direct result of their duties on Conference Committees, provided that such members notify the Clerk of the House in writing as to how they wish to vote, before the daily Journal is published, and that any such vote will not change the outcome of any question.

Special Calendar

Third Reading

Com. Sub. for S. B. 586, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 383**), and there were—yeas 92, nays 2, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: J. Kelly and McGeehan.

Absent and Not Voting: Diserio, Estep-Burton, Linville, Walker, Westfall and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 586) passed.

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

Com. Sub. for S. B. 586 - “A Bill to repeal §15-5-4 and §15-5-27 of the Code of West Virginia 1931, as amended; to repeal §29-3-1, §29-3-2, §29-3-3, §29-3-4, §29-3-5, §29-3-5a, §29-3-5b, §29-3-5c, §29-3-5d, §29-3-5e, §29-3-5f, §29-3-6, §29-3-7, §29-3-8, §29-3-9, §29-3-10, §29-3-11, §29-3-12, §29-3-12a, §29-3-12b, §29-3-13, §29-3-14, §29-3-15, §29-3-16, §29-3-16a, §29-3-16b, §29-3-16c, §29-3-16d, §29-3-17, §29-3-18, §29-3-19, §29-3-21, §29-3-22, §29-3-27, §29-3-28, §29-3-29, §29-3-30, and §29-3-32 of said code; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §15-1A-3 of said code; to amend and reenact §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-20a, §15-5-24, and §15-5-26 of said code; to amend said code by adding thereto a new section, designated §15-5-29; to amend and reenact §15A-1-2 and §15A-1-3 of said code; to amend said code by adding thereto a new section, designated §15A-1-9; to amend said code by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, and §15A-9-7; to amend said code by adding thereto a new article, designated §15A-10-1, §15A-10-2, §15A-10-3, §15A-10-4, §15A-10-5, §15A-10-6, §15A-10-7, §15A-10-8, §15A-10-9, §15A-10-10, §15A-10-11, §15A-10-12, §15A-10-13, §15A-10-14, §15A-10-15, §15A-10-16, §15A-10-17, §15A-10-18, §15A-10-19, §15A-10-20, §15A-10-21, §15A-10-22, §15A-10-23, §15A-10-24, and §15A-10-25; to amend said code by adding thereto a new article, designated §15A-11-1, §15A-11-2, §15A-11-3, §15A-11-4, §15A-11-5, §15A-11-6, §15A-11-7, §15A-11-8, §15A-11-9, §15A-11-10, and §15A-11-11; to amend and reenact §19-1-4 of said code; to amend and reenact §19-21A-4 of said code; to amend and reenact §20-1-7 of said code; to amend and reenact §22-1-6 of said code; to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code; to amend said code by adding thereto a new section, designated §29-31-5; and to amend said code

by adding thereto a new section, designated §33-2-23, all relating to reorganizing and redesignating the Department of Military Affairs and Public Safety as the Department of Homeland Security; clarifying the divisions that report to the cabinet secretary of that Department; removing the Adjutant General's Office, State Armory Board, and Military Awards Board from the Department of Military Affairs and Public Safety; clarifying the agencies established within the Department of Military Affairs and Public Safety; delineating that the secretary of each state Department cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; requiring that the Adjutant General cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; designating the Department of Homeland Security as the State Administrative Agency for homeland security and emergency management grants; designating the Division of Homeland Security and Emergency Management as the Division of Emergency Management; making the employees of the Division of Emergency Management classified exempt employees; terminating the West Virginia Disaster Recovery Board; providing that the State Resiliency Officer have the authority to disburse funds from the Disaster Recovery Trust Fund; granting powers necessary to accomplish such disbursement to the State Resiliency Officer; providing for appropriations and other funding sources to the Disaster Recovery Trust Fund; deleting requirements for government entities with deficiently trained floodplain managers to transfer their floodplain oversight to another governmental entity; amending provisions regarding administration of the Disaster Recovery Trust Fund; providing the State Resiliency Officer need not pay taxes for moneys deposited in the Disaster Recovery Trust Fund or other assets of such Fund; repealing the provision for an annual report of the abolished Disaster Recovery Board; providing the Director of the Division of Emergency Management shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; establishing the powers and duties of the Secretary of the Department of Homeland Security; establishing the Office of Administrative Hearings within the Department of Homeland Security; authorizing the appointment of a Chief Hearing

Examiner, establishing the organization of the Office of the Chief Hearing Examiner; establishing the jurisdiction of the office of administrative hearings; establishing hearing procedures; establishing rule-making authority; establishing a duty to provide notice of change of address; establishing policies for the transition from divisions of the Department of Homeland Security to the Office of Administrative Hearings; separating the Fire Marshal from the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the Department of Homeland Security; setting forth the appointment process for the Fire Marshal; setting forth qualifications, salary, and responsibilities of the State Fire Marshal; allowing the Fire Marshal to hire employees; allowing the Fire Marshal to hire a deputy, and setting the qualifications of the deputy; requiring new Fire Marshals 1, 2, 3, and deputies to become certified law-enforcement officers; setting forth powers and duties of the State Fire Marshal; setting forth additional powers and duties relating to law enforcement, statewide contracts, penalties, and authority to carry firearms; creating enforcement standards for the state building and fire codes; creating rule-making authority; allowing the appointment of advisory boards; setting forth the responsibilities of insurance companies in fire loss investigations; allowing the Fire Marshal to set fees; requiring an annual report; setting forth maintenance of fire hazard standards; allowing orders for repair or demolition; allowing orders to contain notice to comply and a right to appeal; providing standards for service of repair or demolition orders; clarifying who is responsible for cost of work or demolition; allowing an action to recover cost; requiring smoke detectors in one- and two- family dwellings; requiring carbon monoxide detectors in residential units, schools, and day care facilities and setting forth penalties; allowing the use of live trees in public buildings under certain circumstances; setting forth safety standards for bed and breakfast establishments; setting forth standards for installation of propane gas systems; setting forth parameters to abate fire hazards; setting forth license denial, limitation, suspension, and revocation standards; creating an independent informal dispute process for licensees upon appeal; establishing demonstration building and equipment standards for educational instruction for fire protection and prevention and abatement; creating crime of false alarm of fires and setting forth

penalties; creating tax on insurance companies; setting forth general criminal penalties for violation; setting forth that the parts of the article are construed liberally; creating a severability section; allowing the Fire Marshal to award service weapons to retiring employees under certain conditions; allowing the Fire Marshal to dispose of unused firearms; continuing the Fire Commission; setting forth composition, qualifications, appointment, terms of office, removal, vacancies, and compensation and expenses of commission; establishing chairperson, vice chairperson, meeting, and quorum requirements; creating rule-making authority for fire code, building code, and general rule-making authority; continuing the hazardous response training program; requiring public hearing and notice prior to promulgation of fire code; setting forth commission's powers and conduct of public hearing; setting forth commission's powers duties and authority; setting forth authority over volunteer fire department training, and equipment, and creating rule-making authority for such; continuing courtesy certification of firefighters in surrounding states to serve as volunteer firefighters; continuing the Fire Service Equipment and Training Fund; providing the Commissioner of Agriculture shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the State Conservation Committee shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; relating to additional powers, duties, and services of Director of Division of Natural Resources; creating exception to requirement that Division of Natural Resources payments be deposited in bank within 24 hours; providing the Director of the Division of Natural Resources shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Secretary of the Department of Environmental Protection shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; repealing generally now-obsolete provisions relating to the Fire Commission and State Fire Marshal; placing the State Resiliency Office under the Office of the Governor; adding the President of the West Virginia Emergency Management Council, the Secretary of the Department of Homeland Security, Director of the Division of Emergency

Management on the State Resiliency Office Board; adding two non-voting member legislators from each house of the Legislature to the State Resiliency Office Board; specifying tenure of office on that board; providing that members of the board serve without compensation, but may collect necessary expenses; providing certain mandatory duties for that Board; providing the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, and setting the duties and qualifications for such officer; providing for the employment of a deputy to the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, upon presentation from a list of names by the State Resiliency Office Board, and, setting the duties and qualifications for such officer; providing that the State Resiliency Officer and his or her deputy must have complimentary work experience; specifying the areas in which the State Resiliency Office Board shall be required to assist the State Resiliency Officer to fulfill the missions of that office, and specifying the areas where that body shall assist the State Resiliency Officer to devise plans and develop procedures; providing for certain exemptions from the Public Meetings Act and Freedom of Information Act for meetings of, and materials presented to the Board; delineating the authority of the State Resiliency Office and the State Resiliency Officer in carrying out their missions; providing the State Resiliency Officer shall report at least quarterly to the Joint Legislative Committee on Flooding; granting the State Resiliency Officer authority to hire employees for the office; providing that such employees are at-will, may participate in state insurance and other programs, and, if entrusted with state funds, shall execute surety bonds; providing that the State Resiliency Officer shall set employee salary rates; creating the state Office of the National Flood Insurance Program in the Office of the Insurance Commissioner; requiring a coordinator to administer such program; providing that state owned property in any non-participating community shall be governed by appropriate rules promulgated by the Insurance Commissioner; requiring the coordinator and floodplain managers to develop a strategic plan to meet goals and objectives, which plan shall be reviewed by and must be approved by the State Resiliency Officer and State Resiliency Office Board; requiring the coordinator to establish and

enforce flood plain management regulations in special hazard areas which are in conformity with Federal laws and regulations; and providing the coordinator of the state office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.”

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

S. B. 727, Relating to disbursement of funds for highway road repair; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 384**), and there were—yeas 75, nays 23, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bartlett, Butler, Cadle, Criss, Dean, Fast, Foster, Graves, Hanna, Higginbotham, Householder, Howell, J. Jeffries, J. Kelly, Kessinger, C. Martin, P. Martin, Maynard, Miley, Paynter, Steele, Summers and Toney.

Absent and Not Voting: Diserio and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 727) passed.

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

S. B. 727 - “A Bill to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended, relating to the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund for highway road repair; providing that money from the fund is to be expended within the district where gas field and horizontal drilling waste is deposited; increasing the horizontal drilling waste assessment fee; and updating grammatical style throughout the section.”

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

S. B. 734, Clarifying powers and duties of DOH in acquiring property for state road purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 385**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Bibby, Paynter, Sponaugle, Steele and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 734) passed.

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

Second Reading

S. B. 202, Allowing one member of PSD board to be county commissioner; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 225, Empowering municipalities to enact Adopt-A-Street programs; on second reading, coming up in regular order, was reported by the Clerk.

Whereupon,

Delegate Summers obtained unanimous consent that the bill be postponed one day.

Com. Sub. for S. B. 240, Requiring hotels and restaurants secure manhole covers of certain grease traps; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill

on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 6. HOTELS AND RESTAURANTS.

§16-6-22b. Hotels and restaurants to secure covers of grease traps.

(a) This section applies to hotels and restaurants that use grease traps that are outdoors or are in areas that are accessible to members of the general public.

(b)(1) Grease traps with manhole covers shall be designed to withstand expected loads and prevent access by children.

(A) The manhole cover shall be secured by a bolt or locking mechanism and be constructed of round cast iron or similar construction with sufficient weight to prevent unauthorized access.

(B) The commissioner may specify either method of limiting access to the manhole, if the method conforms to paragraph (A) of this subdivision and prevents unauthorized access.

(2) A hotel or restaurant shall ensure that a grease trap manhole is closed and secured or locked, if applicable, at all times.

(c) The secretary shall propose emergency rules for promulgation in accordance with §29A-3-1 *et seq.* of this code for the implementation and administration of this section.

(d) All hotels and restaurants using grease traps shall comply with subsection (b) of this section no later than October 1, 2020.

§16-6-23. Offenses.

Any person, firm, or corporation ~~who shall operate~~ operating a hotel or a restaurant in this state, or who shall let a building to be used for such purposes, without first having complied with the provisions of this article, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined ~~five dollars~~ \$50 for each day ~~such the~~ the failure to comply ~~shall continue~~ continues.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 241, Requiring State Board of Education develop method for student transportation costs as stand-alone consideration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 281, Removing residency requirement for persons applying for reappointment to municipal police dept; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 307, Correcting code citation relating to certain tax liens; on second reading, coming up in regular order, was reported by the Clerk.

Whereupon,

Delegate Summers obtained unanimous consent that the bill be postponed one day.

S. B. 509, Relating to custodial allocation actions independent of divorce; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Foster, the bill was amended on page two, section one hundred five, line twenty-eight, by inserting a new subsection, designated subsection (e), to read as follows:

“(e) This section, §48-9-105 of this code, shall apply only prospectively to custodial allocations and/or child custody determinations rendered in West Virginia courts after the effective date of this legislation. Any custodial allocation and/or child custody determination rendered by any West Virginia court prior to the effective date of this legislation shall be remain subject to the venue of the West Virginia court rendering such custodial allocation and/or child custody determination unless otherwise expressly agreed by both parties to such custodial allocation and/or child custody determination.”

The bill was then ordered to third reading.

S. B. 523, Extending deadline for municipalities to offer Social Security coverage to certain municipal retirement system members; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Pensions and Retirement, was reported by the Clerk and adopted, amending the bill on page one, section twenty-eight, line eleven, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

“(b) On or before October 1, ~~2015~~, the 2024, all participating employers shall ~~jointly~~ submit a plan to the State Auditor, ~~pursuant to §5-7-5 of this code~~, as the designated state agency under the Social Security Act, to extend Social Security benefits to members of the retirement system as authorized by §5-7-5 and applicable federal laws. The State Auditor shall assist the participating employers in complying with the requirements for providing extension of Social Security benefits to members of the retirement system.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 529, Establishing limitations on claims and benefits against state; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section thirteen-a, line forty-four, immediately following the word “claim”, by striking out the semi-colon, and striking out the remainder of that sentence, in its entirety.

The bill was then ordered to third reading.

S. B. 552, Requiring contracts of \$25,000 or more be competitively bid; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk on page

three, section six, line sixty, by striking out subdivision (12) in its entirety and inserting in lieu thereof a new subdivision (12) to read as follows:

“(12) Appoint such employees, officers, managers, attorneys, independent contractors, and consultants as are necessary to carry out the provisions of this article and to fix their compensation and prescribe their duties: *Provided*, That, beginning on the effective date of the amendments to this section enacted during the 2020 Regular Session, all employees of the Water Development Authority are exempt from the classified civil service system: *Provided, however*, That employees of the Water Development Authority who are currently members of the classified civil service system shall retain their status as long as they remain in their current classification. Thereafter, if the employee leaves his or her current classification and remains an employee of the Water Development Authority, that employee, at that time, becomes transferred to the classified-exempt service. All expenses thereof are payable solely from the proceeds of water development revenue bonds or notes issued by the authority, from revenues and from funds appropriated for such purpose by the Legislature.”

Delegate Fleischauer arose to a point of order as to the germaneness of the amendment, which point of order was subsequently withdrawn.

The amendment recommended by the Committee on Government Organization was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 576, Relating to management of public records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 583, Creating program to further development of renewable energy resources; on second reading, coming up in regular order, was reported by the Clerk.

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

S. B. 652, Authorizing School Building Authority promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 686, Exempting contract and common carrier laws for certain vehicles; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 703, Increasing earning limit for employees who accept separation incentive; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 706, Clarifying duties of law-enforcement training and certification subcommittee; on second reading, coming up in regular order, was reported by the Clerk.

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

S. B. 712, Correcting name of Forensic Analysis Laboratory; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 781, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Hornbuckle, Rohrbach and Diserio, the bill was amended on page one, section sixteen, line twelve, following the comma by deleting the word "and".

And,

On page one, section sixteen, line thirteen following the words "apprenticeship programs", by striking out the period and inserting "and if available information on the number of students employed, and the average hours they worked in a relevant field, during such apprenticeship programs."

The bill was then ordered to third reading.

S. B. 816, Updating North American Industry Classification System code references; on second reading, coming up in regular order, was reported by the Clerk.

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

First Reading

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

Com. Sub. for S. B. 201, Relating generally to criminal offenses of stalking and harassment,

S. B. 610, Removing resident manager requirement for Alcohol Beverage Control Administration,

Com. Sub. for S. B. 625, Creating one-day annual license to permit charitable auction of sealed rare, antique, or vintage liquor bottles,

And,

S. B. 789, Repealing obsolete sections of WV Code relating to Legislature.

At 12:36 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 28, 2020.

Friday, February 28, 2020

FIFTY-SECOND DAY

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, February 27, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for S. B. 240, S. B. 509, Com. Sub. for S. B. 529, Com. Sub. for S. B. 576 and Com. Sub. for S. B. 686, on Third Reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for S. B. 201 and Com. Sub. for S. B. 583, on Second Reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for S. B. 534, Com. Sub. for S. B. 571, S. B. 725, S. B. 778, S. B. 779 and S. B. 780, on Third Reading, House Calendar, had been transferred to the Special Calendar; and S. B. 572, on Second Reading, House Calendar, had been transferred to the Special Calendar.

At the request of Delegate Summers, and by unanimous consent, the House of Delegates proceeded to the Seventh Order of Business for the purpose of introducing a resolution.

Resolutions Introduced

Delegates Rohrbach, Linville, Mandt, Hornbuckle, Worrell and Lovejoy, on Behalf of All Members of the House, offered the following resolution:

H. R. 9 - "Memorializing the life of the Honorable Jody Guthrie Smirl, dedicated wife, mother, grandmother, great grandmother and public servant."

Whereas, Jody Smirl was born in Mobile, Alabama, on August 30, 1935, to the late Raymond Booth Guthrie and Emma Jeanne Cole Guthrie; and

Whereas, Jody was married to her devoted husband of 64 years, Dan W. Smirl, and they were the proud parents of two sons, Thomas Booth "Tommy" Smirl and Daniel Marvin "Danny" Smirl. She was also grandmother to three granddaughters, Dr. Sydnee Smirl McElroy, Julia Taylor Smirl, and Rileigh Booth Smirl, who was born on the same day 67 years later, and two great-granddaughters, Charlie Gail and Cooper Renee McElroy; and

Whereas, Jody was a proud graduate of Auburn University and she was a true southern gentlewoman and although she was an avid Marshall University supporter for many years, she also possessed unwavering support for her alma mater and one of her favorite activities was visiting and attending sporting events as an Auburn Tigers alumni; and

Whereas, Jody was a member of First Presbyterian Church and she was a member of many organizations including the League of Women Voters; Triad; Big Green Club and Foundation; Huntington Museum of Arts; Friends of Public TV; Ivy Club; Regency Club; Kentucky Colonel; Friends of the Library; Rotary Anns; Board of Directors, KYOWV; Goodwill Industries; former President of the Huntington Woman's Club; Board of Directors for Green Acres Regional Center; YWCA; YMCA; and a former member for many years and former vice president of the Huntington-Cabell Republican Women. She also received the "Outstanding Woman of Huntington" Award in 1974 and 1996; and

Whereas, Jody G. Smirl was first elected to the West Virginia House of Delegates from 1966 to 1972; elected again in 1984; and 1994-2002, serving 19 years and becoming the most re-elected

woman in the House at that time. She was also elected three times to be a Delegate to the Republican National Convention; and

Whereas, Jody's interruptions in public service were not due to her inability to be elected by the citizens of Cabell County, as she was always very popular in her district, but because her husband's career required relocation of the Smirl family; and

Whereas, Jody was an effective legislator, and with her southern drawl and classy demeanor could gracefully and effectively point out other's errors and bad policy with such grace and aplomb that when she was finished most would thank her for pointing out their error; and

Whereas, Jody was able to effectively carry herself in the men's world of the Legislature in the early part of her legislative career with benevolence and tolerance yet did not suffer fools lightly. She was self-assured and would not hesitate when the need arose to stand up for herself or others; and

Whereas, Jody was an independent sort, who judged for herself the merits of legislation and public policy without precondition, and even as a loyal Republican and supporter of conservative values, she did not hesitate to advance unpopular positions in her party; and

Whereas, Jody was also a kind person, and was always friendly and solicitous to all, and without equivocation, was a favorite member of the house staff who had the pleasure to work with her during her distinguished legislative career; and

Whereas, Jody will also be remembered for her commitment to the Great State of West Virginia and her unwavering determination to stand up for those she represented; and

Whereas, Sadly, the Honorable Jody G. Smirl passed away on Tuesday, November 26, 2019, with her husband and sons by her side; and

Whereas, Jody Smirl will be sadly missed by her family and those whose lives she touched; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby memorializes the life of the Honorable Jody G. Smirl, dedicated wife, mother, grandmother, great grandmother and public servant; and, be it

Further Resolved, That the House of Delegates hereby extends its sincere sympathy at the passing of the Honorable Jody G. Smirl; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the family of the Honorable Jody G. Smirl.

At the respective requests of Delegate Summers, and by unanimous consent, reference of the resolution (H. R. 9) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was then read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 386**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Graves, Robinson and Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 9) adopted.

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 4021, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4021 - “A bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution,”

With the recommendation that the committee substitute do pass.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. C. R. 12, Feasibility study of extracting rare earth elements from coal ash,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 12 - “Requesting West Virginia University researchers study the feasibility of extracting rare earth elements from coal ash,”

With the recommendation that the committee substitute be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for H. C. R. 12) was referred to the Committee on Rules.

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

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

Com. Sub. for S. B. 288, Relating to family planning and child spacing,

S. B. 641, Allowing WVCHIP flexibility in rate setting,

S. B. 647, Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders,

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan,

And,

S. B. 748, Increasing awareness of palliative care services,

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

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

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

Com. Sub. for S. B. 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian,

S. B. 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity,

Com. Sub. for S. B. 689, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act,

Com. Sub. for S. B. 746, Providing contracted managed care companies access to uniform maternal screening tool,

Com. Sub. for S. B. 749, Requiring Fatality and Mortality Review Team share data with CDC,

S. B. 767, Relating to licensure of hospitals,

And,

Com. Sub. for S. B. 770, Revising requirements for post-doctoral training,

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

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

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

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care,

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

Pursuant to House Rule 80, the Speaker then referred Com. Sub. for S. B. 787 to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 125, Prohibiting victim from being subjected to certain physical examinations for sexual offenses,

And,

Com. Sub. for S. B. 144, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 208, Protecting consumers from unfair pricing practices during state of emergency,

S. B. 510, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties,

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims,

And,

Com. Sub. for S. B. 692, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial,

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

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on February 27, 2020, he approved **H. B. 4030**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2338, Allowing the owner of an antique military vehicle to display alternate registration insignia.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-3a. Special registration and use of antique motor vehicles and motorcycles; definition, registration, and definitions; use of classic motor vehicles and classic motorcycles; customized antique plates; exemption for display of registration plate.

(a) The annual registration fee for any antique motor vehicle or motorcycle as defined in this section is \$2. As used in this section:

‘Antique motor vehicle’ means any motor vehicle which is more than 25 years old and is owned solely as a collector’s item.

‘Antique military vehicle’ means an antique motor vehicle, regardless of the vehicle’s size or weight, that was manufactured for use in any country’s military forces, and that is maintained to represent its military design and markings accurately, including a trailer meeting the same requirements, but not including a vehicle or trailer currently in service.

‘Antique motorcycle’ means any motorcycle which is more than 25 years old and is owned solely as a collector’s item.

‘Classic motor vehicle’ means a motor vehicle which is more than 25 years old and is registered pursuant to §17A-10-3 of this code and is used for general transportation.

‘Classic motorcycle’ means a motorcycle which is more than 25 years old and is registered pursuant to §17A-10-3 of this code and is used for general transportation.

(b) Except as otherwise provided in this section, antique motor vehicles or motorcycles may not be used for general transportation but may only be used for:

(1) Participation in club activities, exhibits, tours, parades, and similar events;

(2) The purpose of testing their operation, obtaining repairs or maintenance, and transportation to and from events as described in §17A-10-3a(b)(1) of this code; and

(3) Recreational purposes over weekends, beginning on Friday at 12:00 p. m., and ending on the following Monday at 12:00 p. m., and on holidays: *Provided*, That a classic motor vehicle or a classic motorcycle as defined in this section may be registered under the applicable class at the applicable registration fee set forth in §17A-10-3 of this code and may be used for general transportation.

(c) A West Virginia motor vehicle or motorcycle displaying license plates of the same year of issue as the model year of the antique motor vehicle or motorcycle, as authorized in this section, may be used for general transportation purposes if the following conditions are met:

(1) The license plate's physical condition has been inspected and approved by the Division of Motor Vehicles;

(2) The license plate is registered to the specific motor vehicle or motorcycle by the Division of Motor Vehicles;

(3) The owner of the motor vehicle or motorcycle annually registers the motor vehicle or motorcycle and pays an annual registration fee for the motor vehicle or motorcycle equal to that charged to obtain regular state license plates;

(4) The motor vehicle or motorcycle passes an annual safety inspection; and

(5) The motor vehicle or motorcycle displays a sticker attached to the license plate, issued by the division, indicating that the motor vehicle or motorcycle may be used for general transportation.

(d) If more than one request is made for license plates having the same number, the division shall accept only the first application.

(e) The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary or convenient for the carrying out of the provisions of this section.

(f) Upon appropriate application, together with a special annual fee of \$40, which is in addition to all other fees required by this chapter, there shall be issued to the owner of an antique motor vehicle a special registration plate for an antique motor vehicle titled in the name of the qualified applicant, bearing a combination of letters or numbers requested by that applicant, subject to the approval by the commissioner, and with the maximum number of letters or numbers to be determined by the commissioner.

(g) Upon proper application pursuant to §17A-10-3a(f) of this code, the commissioner shall approve an alternative registration insignia for an antique military vehicle that is compatible with the vehicle's original markings, including, but not limited to, the display of the vehicle's unique military identification number not to exceed eight characters on the bumper of the vehicle: *Provided*, That nothing in this section exempts the operator of an antique military vehicle from the requirements set forth in §17A-3-13 of this code. Pursuant to this subsection, an antique military vehicle is exempt from the requirement to display a registration plate if the exemption is necessary to maintain the vehicle's accurate military marking."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 387**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2338) passed.

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

A message from the Senate, by

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

H. B. 4411, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, with a title amendment, and changed the effective date, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 4477, West Virginia Mutual to Mutual Insurance Holding Company Act.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate title amendment:

H. B. 4477 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-27A-1, §33-27A-2, §33-27A-3, §33-27A-4, §33-27A-5, §33-27A-6, §33-27A-7, §33-27A-8, §33-27A-9, §33-27A-10, §33-27A-11, §33-27A-12, §33-27A-13, and §33-27A-14, all relating to creating the enactment and operation of the West Virginia mutual to mutual insurance holding company act; providing a short title; defining certain terms; establishing a procedure for reorganization of a mutual insurance company into a stock company; providing voting rights of mutual policy holders regarding reorganization and associated notice of public hearings; requiring review of reorganization plan by the Insurance Commissioner, and establishing procedures therefor; establishing procedures for amendment of articles of incorporation of mutual holding companies; requiring continued corporate existence of reorganized mutual insurance companies; stating responsible party for payment of costs and expenses of reorganization; establishing procedures for reorganization of a mutual insurance company; related to membership in a mutual insurance company; establishing the applicability of other laws to the reorganization and resultant companies; prescribing that the mutual insurance company be treated as an insurer; providing the time in which a reorganization may be challenged; and authorizing the Insurance Commissioner to implement necessary rules.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 388**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4477) passed.

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

On this question, the yeas and nays were taken (**Roll No. 389**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4477) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 4600, Relating to the definition of the term member regarding distributing premium tax proceeds.

A message from the Senate, by

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

H. B. 4661, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 124, Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 4275.

A message from the Senate, by

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

S. C. R. 50 - "Requesting the West Virginia Department of Environmental Protection, the Army Corps of Engineers, and the West Virginia Department of Commerce to research and make recommendations regarding construction of a lake where the headwaters of the Guyandotte and Coal Rivers meet in the areas of Raleigh, Wyoming, Boone, and Logan counties."

Whereas, West Virginia has recently made efforts to revitalize the tourism industry of the state, including outdoor recreational opportunities; and

Whereas, Adding dams to southern West Virginia could aid in preventing devastating floods on the Guyandotte and Coal Rivers in the areas of Raleigh, Wyoming, Boone, and Logan counties; and

Whereas, Hydroelectricity has the potential to power and revitalize the area; and

Whereas, The suitability of construction of such a lake in the aforementioned portion of West Virginia is properly determined through an investigation of all relevant factors such as, but not limited to, site geography, comparative costs for construction, post-mine land use, and the additional economic benefits to the local economy; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the West Virginia Department of Environmental Protection, the Army Corps of Engineers, and the West Virginia Department of Commerce to research and make recommendations regarding construction of a lake where the headwaters of the Guyandotte and Coal Rivers meet in the areas of Raleigh, Wyoming, Boone, and Logan counties; and, be it

Further Resolved, That the Legislature hereby requests the departments to submit a written report of its research and findings to the Legislature by December 31, 2020; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Environmental Protection, the Army Corps of Engineers, and the Secretary of the Department of Commerce.

Resolutions Introduced

Delegates Hansen, Bates, Pyles, Pushkin, Williams, Skaff, Walker and S. Brown offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

H. C. R. 125 – “Requesting the Joint Committee on Government and Finance study the benefits of creating a West Virginia State Bank to facilitate access to capital for returning veterans, low income entrepreneurs and for underserved communities, to promote access to capital for developing sustainable agricultural and community investment projects and to study the best practices and management structures necessary to create a successful State Bank.”

Whereas, Having access to financial services and capital is necessary to make investments across this state from developing farming opportunities to community reinvestment and a State Bank can play a vital role in providing access to capital by partnering with financial institutions to stimulate and facilitate investment in this state; and

Whereas, Cities and municipalities across this state are wrestling with blighted and dilapidated buildings and citizens in these communities have limited resources to address these problems without access to financial services and capital to invest and improve our communities; and

Whereas, West Virginia had a food import, export deficit of approximately \$6 billion in 2018, where as a state we imported more than \$7 billion in agricultural consumer products and produce in state less than \$1 billion for export in agricultural consumer products annually; and

Whereas, A State Bank investing in state residents and promoting in state agriculture has the potential to create jobs and provide for developing a wide range of local agricultural projects, products and farming opportunities; and

Whereas, A West Virginia State Bank with its mission to provide access to capital for resident small businesses and entrepreneurial minded individuals greater access to capital by partnering with local banks, increasing local lending through measures such as guaranteeing larger loans and backing smaller, riskier loans that benefit this state and our citizens; and

Whereas, West Virginia should strive to learn from the highly successful Bank of North Dakota and create a prudent state bank management structure that is insulated from political influence with an advisory board that consists of finance experts and executives who are experienced bankers to promote state bank operations and lending decisions that are made by professionals for the explicit purpose of making investments in this state for the benefit of our citizens; and

Whereas, Small businesses represent the largest block of employers in this state and loans for small business are consistently about half of the national average and without access to capital, businesses cannot begin to operate, and small business startups don't start up, entrepreneurship gets curtailed, and growth is hindered; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the benefits of creating a West Virginia State Bank to facilitate access to capital for returning veterans, low income entrepreneurs and for underserved communities, to promote access to capital for developing sustainable agricultural and community investment projects and to study the best practices and management structures necessary to create a successful State Bank; and, be it

Further Resolved, That the Joint Committee on Government and Finance contract with the Department of Public Administration at West Virginia University, at a cost of up to \$50,000, to prepare a report regarding implementing a State Bank of West Virginia, including possible funding mechanisms, the structure of the Bank Board of Directors, and by identifying the target lending clients and entrepreneurial purposes that benefit and support the people of this state and to report to the Legislature on or before December 31, 2020 on their findings, and recommendations, together with any drafts of legislation necessary to effectuate any recommendations; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature 2021 on its findings, conclusions and recommendations, together with any drafts of legislation necessary to effectuate any recommendations; and, be it

Further Resolved, That the State Treasurer, the West Virginia Division of Financial Institutions, the West Virginia Development Office and the Division of Financial Institutions shall cooperate with the Legislature and provide information requested for this study; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Hanshaw (Mr. Speaker) and Miley

[By Request of the Executive]:

H. B. 4975 - “A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, Lottery Net Profits, to the State Department of Education, School Building Authority, fund 3963, fiscal year 2020, organization 0402 by supplementing and amending Chapter 31, Acts of the Legislature, Regular Session, 2019, known as the budget bill for the fiscal year ending June 30, 2020”; to the Committee on Finance.

By Delegates Hanshaw (Mr. Speaker) and Miley

[By Request of the Executive]:

H. B. 4976 - “A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the State Department of Education, School Building Authority, Fund 3514, fiscal year 2020, organization 0402 by supplementing and amending Chapter 31, Acts of the Legislature, Regular Session, 2019, known as the budget bill for the fiscal year ending June 30, 2020”; to the Committee on Finance.

At 11:49 a.m., on motion of Delegate Summers, the House of Delegates recessed for ten minutes.

Special Calendar

Third Reading

In the absence of objection, the House proceeded to consideration of **Com. Sub. for S. B. 240**, Requiring hotels and

restaurants secure manhole covers of certain grease traps, which had been moved to the Special Calendar by the Committee on Rules during the recess.

The bill was read a third time.

Delegate C. Martin requested to be excused from voting on Com. Sub. for S. B. 240 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 390**), and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Bartlett, N. Brown, Evans, Fluharty, Hansen, Hornbuckle, Longstreth, Paynter, Pushkin, Rodighiero, Skaff, Steele, Toney and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 240) passed.

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

S. B. 202, Allowing one member of PSD board to be county commissioner; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 391**), and there were—yeas 81, nays 8, absent and not voting 11, with the nays and absent and not voting being as follows:

Nays: S. Brown, Canestraro, Hanna, J. Jeffries, Lovejoy, McGeehan, Rowe and Sponaule.

Absent and Not Voting: Angelucci, Bartlett, N. Brown, Byrd, Evans, Longstreth, Paynter, Pushkin, Rodighiero, Skaff and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 202) passed.

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

Com. Sub. for S. B. 241, Requiring State Board of Education develop method for student transportation costs as stand-alone consideration; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 392**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, N. Brown, Byrd, Evans, Paynter, Pushkin, Rodighiero and Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 241) passed.

An amendment to the title of the bill, offered by Delegate Ellington, was reported by the Clerk in lieu of the Committee on Education title amendment, and adopted, amending the title to read as follows:

Com. Sub. for S. B. 241 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-9A-7a, relating to requiring State Board of Education to propose revisions to calculation of allowance for service personnel to provide additional positions to meet student transportation needs of certain lower population density districts; and requiring a report to the Legislature.”

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

S. B. 281, Removing residency requirement for persons applying for reappointment to municipal police dept; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 393**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Boggs, Evans and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 281) passed.

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

S. B. 523, Extending deadline for municipalities to offer Social Security coverage to certain municipal retirement system members; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 394**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Boggs, Evans and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 523) passed.

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

S. B. 523 - “A Bill to amend and reenact §8-22A-28 of the Code of West Virginia, 1931, as amended, relating to participation

in Social Security by certain municipalities; extending the deadline for opting to extend Social Security coverage; and requiring State Auditor's office to assist municipalities in complying with certain requirements.”

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

Com. Sub. for S. B. 534, Removing workers' compensation exclusion for temporary legislative employees; on third reading, coming up in regular order, was, in the absence of objection, placed at the foot of bills on third reading.

S. B. 552, Requiring contracts of \$25,000 or more be competitively bid; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 395**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, P. Martin, Pack, Steele and Wilson.

Absent and Not Voting: Angelucci, Evans and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 552) passed.

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

On this question, the yeas and nays were taken (**Roll No. 396**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, P. Martin, Pack, Steele and Wilson.

Absent and Not Voting: Angelucci, Evans and Shott.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 552) takes effect from its passage.

Com. Sub. for S. B. 571, Expiring funds from State Excess Lottery Revenue Fund to various accounts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 397**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Porterfield.

Absent and Not Voting: Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 571) passed.

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

On this question, the yeas and nays were taken (**Roll No. 398**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Porterfield.

Absent and Not Voting: Evans.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 571) takes effect from its passage.

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

S. B. 652, Authorizing School Building Authority promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 399**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cowles, Foster, Hanna, Hardy and Steele.

Absent and Not Voting: Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 652) passed.

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

On this question, the yeas and nays were taken (**Roll No. 400**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 652) takes effect from its passage.

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

S. B. 703, Increasing earning limit for employees who accept separation incentive; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 401**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 703) passed.

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

On this question, the yeas and nays were taken (**Roll No. 402**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 703) takes effect from its passage.

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

S. B. 712, Correcting name of Forensic Analysis Laboratory; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 403**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 712) passed.

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

On this question, the yeas and nays were taken (**Roll No. 404**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 712) takes effect from its passage.

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

S. B. 725, Supplemental appropriation to various Department of Education accounts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 405**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Evans.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 725) passed.

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

On this question, the yeas and nays were taken (**Roll No. 406**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Evans and Hicks.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 725) takes effect from its passage.

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

S. B. 778, Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 407**), and there were—yeas 63, nays 34, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Byrd, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Porterfield, Pushkin, Pyles, Robinson, Skaff, Sponaugle, Steele, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: N. Brown, Evans and Hicks.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 778) passed.

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

On this question, the yeas and nays were taken (**Roll No. 408**), and there were—yeas 70, nays 27, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Fluharty, Hansen, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Porterfield, Robinson, Rowe, Skaff, Sponaugle, C. Thompson, R. Thompson, Walker and Williams.

Absent and Not Voting: N. Brown, Evans and Hicks.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 778) takes effect from its passage.

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

S. B. 779, Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 409**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan, Porterfield and Steele.

Absent and Not Voting: Evans and Staggers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 779) passed.

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

On this question, the yeas and nays were taken (**Roll No. 410**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Porterfield.

Absent and Not Voting: Evans and Staggers.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 779) takes effect from its passage.

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

S. B. 780, Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 411**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Evans and Stagers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 780) passed.

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

On this question, the yeas and nays were taken (**Roll No. 412**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Evans and Stagers.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 780) takes effect from its passage.

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

S. B. 781, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 413**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 781) passed.

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

Having been placed at the foot of bills on third reading in earlier proceedings, the House of Delegates returned to consideration of **Com. Sub. for S. B. 534**, Removing workers' compensation exclusion for temporary legislative employees.

Having been read a third time, the bill was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 414**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Evans and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 534) passed.

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

Pursuant to House Rule 58, Delegate Howell, having voted on the prevailing side on the votes regarding **S. B. 552** on today, moved that the vote on passage and the effective date be reconsidered.

The motion to reconsider the vote on the effective date of the bill was put and prevailed.

The motion to reconsider the vote by which the House of Delegates passed S. B. 552 was put and prevailed.

Delegate Byrd moved that the bill be postponed one day and the rule be suspended to allow amendments to be offered on Third Reading.

Delegate Foster then moved that the vote on the adoption on yesterday of the amendment recommended by the Committee on Government Organization be reconsidered.

Whereupon,

Delegate Byrd obtained unanimous consent to withdraw his motion.

The motion by Delegate Foster to reconsider the vote on the adoption of the amendment was put and prevailed.

Whereupon,

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 415**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, J. Kelly, P. Martin and Wilson.

Absent and Not Voting: S. Brown, Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 552) passed.

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

On this question, the yeas and nays were taken (**Roll No. 416**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, P. Martin and Wilson.

Absent and Not Voting: S. Brown and Evans.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 552) takes effect from its passage.

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

In the absence of objection, the House of Delegates returned to the Third Order of Business and **S. B. 664**, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity, reported by the Committee on the Health and Human Resources in earlier proceedings, was, in accordance with the former direction of the Speaker, then referred to the Committee on the Judiciary.

Second Reading

Com. Sub. for S. B. 225, Empowering municipalities to enact Adopt-A-Street programs; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 307, Correcting code citation relating to certain tax liens; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 572, Expiring funds from General Revenue and Lottery Net Profits to various accounts; on second reading, coming up in regular order, was read a second time.

Delegates Barrett and Bates moved to amend the bill on page three, line fifty-two, by striking out the words "Medical Services" and inserting in lieu thereof the words "Social Services" and striking out the number "63300" and inserting in lieu thereof the number "19500".

And,

Following the period at the end of page three, line fifty-two, by inserting the following:

“Any unexpended balances remaining in the appropriations for Social Services – Surplus (fund 0403, appropriation 19500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation for Social Services – Surplus (fund 0403 appropriation 19500) is funding for foster care rates to both child placing agencies and certified foster care homes, and legal guardianship subsidies.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 417**), and there were—yeas 39, nays 58, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Boggs, Cowles and Evans.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

S. B. 610, Removing resident manager requirement for Alcohol Beverage Control Administration; on second reading, coming up in regular order, was reported by the Clerk.

Whereupon,

Delegate Summers obtained unanimous consent that the bill be postponed one day.

Com. Sub. for S. B. 625, Creating one-day annual license to permit charitable auction of sealed rare, antique, or vintage liquor bottles; on second reading, coming up in regular order, was reported by the Clerk.

Whereupon,

Delegate Summers obtained unanimous consent that the bill be postponed one day.

Com. Sub. for S. B. 706, Clarifying duties of law-enforcement training and certification subcommittee; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 789, Repealing obsolete sections of WV Code relating to Legislature; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 816, Updating North American Industry Classification System code references; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 849, Relating to military service as factor in certain insurance coverage rates; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 6. THE INSURANCE POLICY.

§33-6-40. Military service as factor in insurance rates.

No person may charge an increased premium for reinstating any fire insurance contract, marine insurance contract, or casualty insurance contract that was cancelled or suspended by an insured solely as a result of their performance of military duty as a member of the United States Armed Forces or as a member of the reserve component of the United States Armed Forces, to include the

National Guard of any state or territory. No person may charge an increased premium for a new fire insurance contract, marine insurance contract, or casualty insurance contract if the applicant for coverage or his or her covered dependents were previously insured with a different insurer and cancelled that policy solely as a result of their performance of military duty as a member of the United States Armed Forces or as a member of the reserve component of the United States Armed Forces, to include the National Guard of any state or territory. For the purposes of this section, service in the National Guard includes any full-time active duty for annual training in the National Guard, inactive duty training, active duty operational support, active duty special work, funeral honors, state active duty as a member of a National Guard unit, or any other periods of service pursuant to Title 32 of the United States Code, or active service of any state or territory. For purposes of determining premiums, an insurer shall consider such persons as having maintained continuous coverage.”

The bill was then ordered to third reading.

First Reading

Com. Sub. for S. B. 6, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights; on first reading, coming up in regular order, was read a first time.

Pursuant to House Rule 103, Delegate Cadle moved that the bill be rejected.

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

On this question, the yeas and nays were taken (**Roll No. 418**), and there were—yeas 28, nays 70, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Barnhart, Bibby, Butler, Cadle, Capito, Cooper, Criss, Dean, Ellington, Graves, Hanna, Higginbotham, D. Jeffries, J. Jeffries, Kessinger, Kump, C.R. Martin, Pack, Paynter,

Porterfield, Queen, Rohrbach, Shott, Staggers, Steele, Toney and Wilson.

Absent and Not Voting: Evans and Worrell.

So, a majority of the members present and voting not having voted in the affirmative, the motion for the previous question did not prevail.

The question being, "Shall the bill be rejected?", the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were (**Roll No. 419**), and there were—yeas 41, nays 57, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, S. Brown, Butler, Byrd, Cadle, Canestraro, Caputo, Cooper, Dean, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Kump, Lavender-Bowe, Longstreth, Lovejoy, C. Martin, P. Martin, McGeehan, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rowe, Skaff, Staggers, Swartzmiller, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Evans and Worrell.

So, a majority of the members present and voting not having voted in the affirmative, the motion to reject Com. Sub. for S. B. 6 did not prevail.

The bill was ordered to second reading.

Com. Sub. for S. B. 96, Prohibiting municipalities from limiting persons' rights to possess certain weapons; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 562, Expunging certain criminal convictions; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 649, Permitting county emergency phone system directors negotiate contracts for mobile phones; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 651, Relating to definition of “mortgage loan originator”; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Evans.

At 1:34 p.m., the House of Delegates recessed until 6:00 p.m.

* * * * *

Evening Session

* * * * *

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

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims, reported by the Committee on the Judiciary in earlier proceedings, was, in the absence of objection and in accordance with the former direction of the Speaker, then referred to the Committee on Finance.

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

Your Committee on Technology and Infrastructure has had under consideration:

Com. Sub. for S. B. 589, Creating Critical Needs/Failing Systems Sub Account,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 589) was referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator,

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

On motion for leave a resolution was introduced (Originating in the Committee on Government Organization and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegates Howell, C. Martin, Azinger, Barnhart, Cadle, Caputo, Diserio, Hamrick, Hansen, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Stagers, Swartzmiller, Sypolt, Tomblin, Walker, Wilson and Worrell:

H. C. R. 126 – “Requesting the Joint Committee on Government and Finance study the Division of Personnel regarding the policies and practices of the division, including

evaluating applicants for employment, the timeliness of hiring and the correlation of certain exemptions from the division regarding hiring, evaluating the pay-scale administered by the division and to evaluate the management practices of the division.”

Whereas, Several departments of state government have requested and have been granted statutory exemptions to the Division of Personnel classified system due to staffing shortages and delays in the hiring process as administered by the division; and

Whereas, Recruitment and retention of qualified employees in the classified service is the central mission of the Division of Personnel, however staffing shortages persist statewide from the state hospitals to the Division of Highways and the Legislature is committed to identifying the problems with recruitment and retention and by identifying solutions to those problems, including reviewing and evaluating the exemptions to the division and their effectiveness; and

Whereas, Public employees provide the vast array of governmental services to the citizens and businesses in this state to ensure everyone enjoys a high quality of life with predictable regulations to protect the public and the environment, and to provide for the necessary infrastructure for business and industry to thrive and requires a qualified and reliable workforce; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the Division of Personnel regarding the policies and practices of the division, including evaluating applicants for employment, the timeliness of hiring and the correlation of certain exemptions from the division regarding hiring, evaluating the pay-scale administered by the division and to evaluate the management practices of the division; and, be it

Further Resolved, That the Division of Personnel and the Department of Administration, the Department of Health and

Human Resources, the Department of Transportation and the Department of Commerce shall cooperate with the Legislature in the conduct of this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolution to the Committee on Rules.

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

Your Committee on Government Organization has had under consideration:

S. C. R. 25, Requesting study on impact of future electromagnetic pulse catastrophe,

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

In accordance with the former direction of the Speaker, the resolution (S. C. R. 25) was referred to the Committee on Rules.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 491, Relating to Seed Certification Program,

Com. Sub. for S. B. 705, Allowing military veterans with certain experience qualify for examination as electrician or plumber,

And,

Com. Sub. for S. B. 751, Removing certain requirements of municipality annexing property within urban growth boundary,

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

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

Your Committee on Finance has had under consideration:

S. B. 812, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services,

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

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

Your Committee on Finance has had under consideration:

S. B. 289, Creating Green Alert Plan,

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

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

Your Committee on Finance has had under consideration:

S. B. 569, Expiring funds from various accounts to DHHR, Medical Services Program Fund,

Com. Sub. for S. B. 570, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund,

S. B. 803, Supplemental appropriation of money out of General Revenue Fund to DHHR,

S. B. 804, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund,

S. B. 805, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund,

And,

S. B. 806, Supplemental appropriation out of federal funds in Treasury to DOT,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 680, Qualifying not-for-profit private baccalaureate institutions for Advanced Career Education programs and WV Invests Grant Program.

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

In accordance with the former direction of the Speaker, the bill (S. B. 680) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 230, Requiring State Board of Education provide routine education in suicide prevention,

And,

Com. Sub. for S. B. 303, Enacting Students' Right to Know Act,

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

Delegate Hanshaw (Mr. Speaker), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. R. 7, Designating a single state funeral to be held upon the death of the last living Medal of Honor recipient from World War II,

H. C. R. 2, Requesting the Division of Highways name a portion of WV 3 Vietnam Veterans Memorial Highway,

H. C. R. 6, Clarence Watson Meadows Memorial Boulevard,

Com. Sub. for H. C. R. 10, Robert "Glen" Schoonover Memorial Bridge,

H. C. R. 11, U. S. Army SGT Robert R. "Bob" Defibaugh Memorial Bridge,

Com. Sub. for H. C. R. 15, Rose Agnes Rolls Cousins Bridge,

Com. Sub. for H. C. R. 23, U. S. Army Spec. 4, Roger Dale Griffith Memorial Bridge,

H. C. R. 27, U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge,

H. C. R. 28, U.S.M.C. Cpl Andrew Ryan White Memorial Bridge,

Com. Sub. for H. C. R. 30, U. S. Army Corporal C. O. "Skip" Johnson Memorial Bridge,

H. C. R. 40, The Hall Brothers Veterans Bridge,

Com. Sub. for H. C. R. 41, U. S. PFC Dennis Warren Baxter, USMC, Memorial Bridge,

Com. Sub. for H. C. R. 42, PFC David Henry Shiflett Memorial Bridge,

H. C. R. 47, U. S. Army Air Corps SSGT Charles Dexter Duncan Memorial Road,

H. C. R. 51, Gunsmiths Trace,

H. C. R. 60, U. S. Army PFC Teddy Ray Chandler Memorial Bridge,

H. C. R. 63, Sharp Military Brothers Bridge,

H. C. R. 64, U. S. Army SP5 Benny Ray Snodgrass Memorial Bridge,

H. C. R. 66, U. S. Army Sgt. Joseph W. McCutcheon Memorial Bridge,

H. C. R. 67, First Lieutenant Fred Omar Pratt Memorial Bridge,

H. C. R. 68, Kidd Brothers Veterans Memorial Bridge,

H. C. R. 79, U. S. Army Nurses Corp CPT Nancy Margret Kiess Memorial Bridge,

H. C. R. 80, U. S. Army Major Michael Alphonse Rafferty Memorial Bridge,

Com. Sub. for H. C. R. 82, Naming a portion of Buffalo Creek Road, In Memory of Tootsie Hensley, Please keep Buffalo Creek Litter Free,

H. C. R. 83, U. S. Army SFC Guy R. Hively Memorial Bridge,

H. C. R. 88, Johnnie Bryant Moore Memorial Bridge,

Com. Sub. for H. C. R. 90, Wood Brothers Memorial Bridge,

H. C. R. 91, Caldwell Brothers Memorial Road,

H. C. R. 92, Mayor Abraham E. Huddleston Memorial Bridge,

H. C. R. 99, U. S. Army CPL Russell Allen Taylor Memorial Bridge,

H. C. R. 103, French and Indian War Veterans Memorial Bridge,

H. C. R. 105, U. S. Air Force Colonel Rishel C. Walker Memorial Bridge,

And,

H. C. R. 122, Eustace Frederick Memorial Road,

And reports the same back with the recommendation that they each be adopted.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 261, Creating criminal penalties for introducing ransomware into computer with intent to extort,

S. B. 838, Directing state police establish referral program for substance abuse treatment,

And,

S. B. 851, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 175, Requiring certain agencies maintain website which contains specific information,

Com. Sub. for S. B. 530, Relating to taxation of aircraft,

And,

S. B. 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

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

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 27th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 4515, Relating to wildlife resources, eligibility for license or permit application.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 27th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 4007, Born-Alive Abortion Survivors Protection Act.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 27th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 4026, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 28th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 4353, Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making,

And,

H. B. 4601, Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 28th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 2922, Relating to requirements to obtain a final order of discharge and dismissal for possession of opiates or opioids,

H. B. 4166, Prohibiting certain sex offenders from being in a supervisory position over children,

H. B. 4381, Relating to lifetime hunting, fishing and trapping licenses for adopted children,

Com. Sub. for H. B. 4470, Relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services,

And,

H. B. 4476, Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 28th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 4179, Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 28th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 209, Relating to annexation by minor boundary adjustment,

Com. Sub. for S. B. 449, Authorizing Department of Commerce promulgate legislative rules,

Com. Sub. for S. B. 532, Distributing assets remaining in municipal policemen's or firemen's pension and relief fund on death of last retiree or beneficiary,

Com. Sub. for S. B. 544, Authorizing pharmacists and pharmacy interns administer vaccines,

Com. Sub. for S. B. 560, Permitting nursing home use trained individuals administer medication,

S. B. 573, Supplementing, amending, and increasing appropriations of public moneys for claims against state,

S. B. 620, Authorizing Division of Corrections and Rehabilitation approve home plans for inmates,

And,

S. B. 642, Correcting incorrect code citation in WV Consumer Credit and Protection Act.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 28th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates.

Com. Sub. for S. B. 623, Allowing noncitizen of US be eligible for teaching certificate,

And,

Com. Sub. for S. B. 657, Allowing designation of tourism development districts.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 586, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security.

A message from the Senate, by

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

S. B. 843 - “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, Energy Assistance, fund 8755, fiscal year 2020, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 844 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2020, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 845 - “A Bill making a supplementary appropriation of federal funds out of the State Treasury from the balance of federal moneys remaining unappropriated for the fiscal

year ending June 30, 2020, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2020, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020"; which was referred to the Committee on Finance.

Miscellaneous Business

Delegate Doyle noted to the Clerk that he was absent on yesterday when the vote was taken on Roll No. 376, and had he been present, he would have voted "Yea" thereon.

Delegate Westfall noted to the Clerk that he was absent on yesterday when the vote was taken on Roll No. 383, and had he been present, he would have voted "Yea" thereon.

Pursuant to House Rule 94b, a form was filed with the Clerk's Office to be added as a cosponsor of the following:

- Delegate C. Thompson for H. C. R. 94
- Delegate Maynard for H. C. R. 12
- Delegates Bartlett, Campbell, Cooper, Higginbotham, Jennings, D. Kelly, Rowan, Sypolt, Toney and Worrell for H. C. R. 86

At 6:36 p.m, the House of Delegates adjourned until 12:00 noon, Saturday, February 29, 2020.

Saturday, February 29, 2020

FIFTY-THIRD DAY

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

The House of Delegates met at 12:00 noon, and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Friday, February 28, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 610 and Com. Sub. for S. B. 625, on Second Reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for S. B. 529, Com. Sub. for S. B. 554, Com. Sub. for S. B. 576 and Com. Sub. for S. B. 686, on Third Reading, House Calendar, had been transferred to the Special Calendar; and Com. Sub. for S. B. 201 and Com. Sub. for S. B. 583, on Second Reading, House Calendar, had been transferred to the Special Calendar.

Conference Committee Report Availability

At 12:21 p.m., the Clerk announced availability of the report of the Committee of Conference on **Com. Sub. for H. B. 4275**, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 490, Relating to criminal offenses against agricultural facilities,

Com. Sub. for S. B. 670, Amending service of process on nonresident persons or corporate entities,

And,

Com. Sub. for S. B. 810, Implementing federal Affordable Clean Energy rule,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 732, Authorizing fee payment and expense reimbursement for attorneys who participate on court teams established by Supreme Court of Appeals,

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

In accordance with the former direction of the Speaker, the bill (S. B. 732) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 275, Creating Intermediate Court of Appeals,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 275) was referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities,

And,

S. B. 600, Creating special revenue account designated Military Authority Fund,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 322, Relating to prequalifications for state contract vendors,

And,

Com. Sub. for S. B. 738, Creating Flatwater Trail Commission,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 722, Relating to special license plates for public and private nonprofit transit providers,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 690, Permitting street-legal special purpose vehicles on highways,

And,

Com. Sub. for S. B. 802, Relating to public utilities generally,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 653, Increasing number of magistrates in certain counties,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 653) was referred to the Committee on Finance.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on February 28, 2020, he approved **Com. Sub. for H. B. 2497** and **Com. Sub. for H. B. 4058**.

Messages from the Senate

A message from the Senate, by

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

S. C. R. 32 - “Requesting the Division of Highways name bridge number 17-019/00-004.49(17A069), locally known as Good Hope Bridge, carrying US Route 19 over the West Fork River in Harrison County, the ‘U. S. Marine Corps PFC James R. “Johnny” Corder Memorial Bridge’.”

Whereas, James Russell Corder was born July 24, 1947, in Clarksburg, West Virginia; and

Whereas, James Russell Corder grew up in a poor coal camp in Hepzibah, West Virginia, as the oldest of five siblings who described “Johnny” as their “mentor” and “protector” and a loyal brother who helped them with their schoolwork; and

Whereas, James Russell Corder moved to a 36-acre farm in Good Hope, West Virginia, where he helped his family install fencing around the property, raise livestock, and care for three large gardens; and

Whereas, James Russell Corder was known as an adventurer who caught live snakes, which he used to scare his mom, and became an expert marksman known for taking down two crows with one shot; and

Whereas, James Russell Corder enlisted in the U. S. Marine Corps in 1967 after he graduated from South Harrison High School, hoping to protect his brothers from the draft; and

Whereas, James Russell Corder served as a Private 1st Class rifleman and radio operator with the 3rd Marine Division, 3rd Battalion, 3rd Marines, I Company in Quang Tri Province, South Vietnam; and

Whereas, James Russell Corder was killed by enemy fire during a reconnaissance mission on May 23, 1968, when a mortar landed next to the fox hole in which he was operating the field radio; and

Whereas, Family members were overwhelmed with sorrow when they received word that “Johnny” had become a casualty in what would become the deadliest month of the Vietnam War and he continues to be missed by his family; and

Whereas, James Russell Corder was awarded the Purple Heart, Vietnam Gallantry Cross, Combat Action Ribbon, and Marine Corps Presidential Unit Citation; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC James R. “Johnny” Corder and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name number 17-019/00-004.49 (17A069), locally known as Good Hope Bridge, carrying US Route 19 over the West Fork River in Harrison County, the “U. S. Marine Corps PFC James R. ‘Johnny’ Corder Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Marine Corps PFC James R. ‘Johnny’ Corder Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to forward five copies of this resolution to Mr. Corder’s family members and a close friend.

A message from the Senate, by

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

S. C. R. 33 – “Requesting the Division of Highways name bridge number 55-097/00-034.83 (55A102), locally known as Maben Bridge, carrying WV 97 over Slab Fork Creek in Wyoming County, the ‘U.S. Air Force MSGT Dvon Duncan Memorial Bridge’.”

Whereas, Dvon Duncan was born on January 18, 1953, to Paul and Dorothy Duncan; and

Whereas, Dvon Duncan was a graduate of Glen Rogers High School, and also received an Associate in Arts Degree, in General Studies from Hagerstown Junior College, an Associate in Applied Science Degree, in Communications Operations Technology from Community College of the Air Force, a Bachelor of Arts Degree in History from Auburn University and a Masters of Arts Degree in Liberal Studies and Strategic Leadership from the University of Memphis; and

Whereas, Dvon Duncan joined the U.S. Air Force on March 7, 1974, and stayed until her retirement in February 1991; and

Whereas, MSGT Dvon Duncan was awarded the Meritorious Service Medal with one Oak Leaf Cluster, the Joint Service Commendation Medal, the Air Force Commendation Medal, the Air Force Achievement Medal (GALLANT EAGLE 82), the Air

Force Outstanding Unit Award Ribbon with one Oak Leaf Cluster, the Combat Readiness Medal, the Good Conduct Medal with one Oak Leaf Cluster, the Air Force Overseas Short Tour Ribbon, the Air Force Overseas Long Tour Ribbon with one Oak Leaf Cluster, and the Small Arms Expert Marksmanship Ribbon; and

Whereas, MSGT Dvon Duncan authored two books of poetry—“Signs in the Earth” and “Raven’s Call” and a short story entitled “Green Man of Milam Fork”, and moved back to West Virginia in 2006 where she operated Duncan Business Services which specialized in strategic business planning; and

Whereas, MSGT Dvon Duncan served on the Wyoming County Convention and Visitors Bureau where she coauthored the Guyandotte Scenic Drive Corridor Management Plan; and she also served on the Guyandotte River Water Trail Alliance, the Southern Conservation District, the Mountain Resource Conservation and Development Council and the Friends of Milam Creek; and

Whereas, MSGT Dvon Duncan died on July 7, 2019, and will be missed by many in Wyoming County; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Air Force MSGT Dvon Duncan and her contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 55-097/00-34.83 (55A102), locally known as Maben Bridge, carrying WV 97 over Slab Fork in Wyoming County, the “U.S. Air Force MSGT Dvon Duncan Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to be made and placed signs identifying the bridge as the “U.S. Air Force MSGT Dvon Duncan Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 34 – “Requesting the Division of Highways name bridge number 34-001/00-000.10 (34A144), locally known as Strange Creek Bridge, carrying County Route 1 over Strange Creek in Nicholas County, the ‘U.S. Army CPL Dane Hampton Hamric Memorial Bridge’.”

Whereas, Dane Hampton Hamric, born on December 14, 1920, in Sutton, West Virginia, was one of 10 children born to Allen Corley Hamric and Mable Goldie Craft Hamric of Braxton County; and

Whereas, CPL Dane Hampton Hamric served in the U.S. Army 60th Coast Artillery Regiment for seven years before his heroic death in a Japanese prisoner of war (POW) camp in the Philippines on December 18, 1944; and

Whereas, CPL Dane Hampton Hamric was stationed in Corregidor with the 1st Separate Marine Battalion when WWII broke out in December 1941. He fought there with what became the 3rd Battalion, 4th Marine Regiment which consisted of combined units from the U.S. Army, U.S. Navy, and locally recruited Filipino soldiers; and

Whereas, Units at Corregidor were forced to surrender to the Japanese on May 6, 1942, and were held in prison on Corregidor, until they were moved first to Manila and then to Puerto Princesa on the Island of Palawan. Of the thousands of allied military personnel taken prisoner by the Japanese, approximately 346 American POWs remained from August 1, 1942, until December

14, 1944, in the Philippines where they were shipped to Palawan to build an airfield for the Japanese; and

Whereas, The Palawan compound was known as Camp-10A, and the American POWs held captive there received brutal treatment from Japanese guards. The men starved, suffered from diseases like malaria, scurvy, and pellagra, and endured hard labor. Medical care was nonexistent and medical supplies from the American Red Cross, intended for American POWs, were seized by the Japanese for their own use. In September 1944, 159 of the American POWs were returned to Manila, leaving 150 men behind to complete the airfield; and

Whereas, On December 14, 1944, Japanese aircraft reported the presence of an American convoy which was mistakenly believed to be headed for Palawan, and POWs were sent into trenched shelters they had built for protection during allied air raids. Guards doused the shelters with gasoline and used torches to set them on fire with the men inside. Most of the American POWs who managed to escape the burning shelters were shot, bayoneted, or beaten to death as they hid among rocks on the beach or attempted to swim across Puerto Princesa's bay. Four American officers, who were also held captive at the camp, had their dugout set on fire during the massacre; and

Whereas, Of the known 150 American POWs present at the Palawan camp, 139 were murdered on December 14, 1944, and 11 survived. CPL Dane Hampton Hamric was able to escape the prison yard but was hit in the arm by rifle fire. He hid in a cave on the beach for four days before succumbing to his injuries, and was buried in a makeshift grave by a surviving POW. His body was never recovered, and on December 18, 1944, he was recorded by the U.S. Army as Reported Dead While Captured, Prisoner of War; and

Whereas, CPL Dane Hampton Hamric is memorialized in the Tablets of the Missing at the Manila American Cemetery and Memorial in the Philippines. CPL Dane Hampton Hamric was awarded the Prisoner of War Medal and the Purple Heart, Service Number 15017127; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Dane Hampton Hamric for his service and sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 34-001/00-000.10 (34A144), locally known as Strange Creek Bridge, carrying County Route 1 over Strange Creek in Nicholas County, the “U.S. Army CPL Dane Hampton Hamric Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army CPL Dane Hampton Hamric Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to David R. Hamric, P.O. Box 83, Dille, WV 26617.

A message from the Senate, by

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

S. C. R. 35 – “Requesting the Division of Highways name the entire portion of West Virginia Route 10 situated within the town limits of Oceana, Wyoming County, the ‘Veterans Memorial Drive’.”

Whereas, The town of Oceana has provided soldiers for the various branches of the nation’s military; and

Whereas, Oceana veterans have served their country and their community with distinction; and

Whereas, Many veterans from Oceana gave their lives for their country or have suffered the scars of service many years after returning from military duty; and

Whereas, Many veterans returning to Oceana following military service have volunteered their energy and talents to build and strengthen the local community in service to others; and

Whereas, It is fitting that an enduring memorial be established to commemorate the many military veterans of Oceana and their contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the entire portion of West Virginia Route 10, situated within the town limits of Oceana, Wyoming County, the “Veterans Memorial Drive”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the portion of road as the “Veterans Memorial Drive”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 36 – “Requesting the Division of Highways name bridge number 13-060/00-034.93 (13A114), locally known as Caldwell Bridge, carrying U.S. 60 over Greenbrier River in Greenbrier County, the ‘Shafer Brothers U.S. Military Veterans Memorial Bridge’.”

Whereas, The six Shafer brothers were born and raised in Caldwell, Greenbrier County. They all served in the United States

military. Charles “Ovid” Shafer, the U.S. Army, World War II; “Harold” Harding Shafer, the U.S. Army, World War II; William “Bill” Shafer, the U.S. Army; World War II; Robert Lewis “Bob” Shafer, the U.S. Navy, World War II; Elmer “Ray” Shafer, the U.S. Navy, World War II; and Joseph Arthur “Joe” Shafer, the U.S. Marine Corps, Korean War. All six returned home safely after serving their great country; and

Whereas, These six men and their additional three brothers and two sisters lived in this community throughout their lives and, they and their many descendants, have travelled across the bridge that is the subject of this resolution; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Shafer brothers and their contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 13-060/00-034.93 (13A114), locally known as Caldwell Bridge, carrying U.S. 60 over Greenbrier River in Greenbrier County, the “Shafer Brothers U.S. Military Veterans Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Shafer Brothers U.S. Military Veterans Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 39- “Requesting the Division of Highways name bridge number 13-60-1.43 (13A103), locally known as Little Sewell Creek Bridge, carrying US 60 over Little Sewell Creek in Greenbrier County, the ‘U.S. Navy PO1 Jeffrey S. Taylor Memorial Bridge’.”

Whereas, U.S. Navy Petty Officer 1st Class E-6 Jeffrey S. Taylor was born May 18, 1975, in Midway, West Virginia. He enlisted in the U.S. Navy on July 23, 1993, and attended basic training at NTC Great Lakes, Illinois, from June to August 1994. Petty Officer Taylor completed Hospital Corpsman training in December 1994, followed by service at the Naval Medical Center in Portsmouth, Virginia, from January 1995 to December 1996. Petty Officer Taylor attended the Field Medical Service School at Camp Lejeune, North Carolina, from January to February 1997, and then served as Corpsman with the Marine Corps’ 2d Marine Division at Camp Lejeune from February 1997 to July 1999; and

Whereas, Petty Officer Taylor entered Basic Underwater Demolition/SEAL training at the end of July 1999, and after completing BUD/S training, Jump School, and SEAL Qualification training, he served with SEAL Team Eight at the Naval Amphibious Base (NAB) Little Creek, Virginia, from September 2000 to October 2001. His next assignment was aboard the aircraft carrier USS Theodore Roosevelt (CVN-71) from October 2001 to June 2002, followed by service at the John F. Kennedy Special Warfare Center at Fort Bragg, North Carolina, from July 2002 to February 2003; and

Whereas, While serving aboard the USS Theodore Roosevelt, Petty Officer Taylor deployed to Afghanistan with SEAL Team Three in November 2001. His final assignment was with SEAL Team Ten at NAB Little Creek from February 2003 until he was killed in action on June 28, 2005 while deployed to Afghanistan when the MH-47 Chinook helicopter he was aboard was shot down by an enemy rocket-propelled grenade during Operation Red Wings. Petty Officer Taylor was buried in Arlington National Cemetery; and

Whereas, Petty Officer Taylor's Bronze Star Medal with Valor Citation reads: "For heroic achievement in connection with combat operations against the enemy while serving as Leading Platoon Petty Officer, SEAL Team Ten, while deployed to Afghanistan in support of Operation Enduring Freedom on 28 June 2005. As part of a Quick Reaction Force, Petty Officer Taylor was sent to reinforce a Navy SEAL Special Reconnaissance element engaged in a fierce firefight against a numerically superior Anti-Coalition Militia near Asadabad, Konor Province, Afghanistan. The Special Reconnaissance element was under siege from enemy fire in extremely rugged and unforgiving terrain. Demonstrating exceptional resolve and fully comprehending the ramifications of the mission, Petty Officer Taylor's element launched aboard a Helicopter for direct insertion onto an active battlefield, ready to engage and destroy the enemy in order to protect the lives of their fellow SEALs. While airborne Petty Officer Taylor continued working with member of his team to develop the plan of attack to support both a Quick Reaction Force and an urgent execution of the intended deliberate assault. As the helicopter hovered in preparation for a daring fast-rope insertion of the SEALs, the aircraft was struck by an enemy rocket-propelled grenade fired by Anti-Coalition Militia. The resulting explosion and impact caused the tragic and untimely loss of life of all onboard. Petty Officer Taylor's bravery and heroism in the face of severe danger while fighting the Global War on Terrorism was extraordinary. By his courageous actions, zealous initiative and loyal dedication to duty, Petty Officer Taylor reflected great credit upon himself and upheld the highest traditions of the United States Naval Service"; and

Whereas, In 2007 the book *Lone Survivor: The Eyewitness Account of Operation Redwing and the Lost Heroes of SEAL Team 10*, written by Marcus Luttrell with Patrick Robinson, was published by Little, Brown and Company. That book was the basis for the motion picture *Lone Survivor*, released in 2013 and directed by Peter Berg. Both the book and the motion picture told the story of Petty Officer Taylor's last mission; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Navy Petty Officer 1st Class E-6 Jeffrey S.

Taylor's contributions to our state and country, and for having made the ultimate sacrifice; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 13-60-1.43 (13A103), locally known as Little Sewell Creek Bridge, carrying US 60 over Little Sewell Creek in Greenbrier County, the "U.S. Navy PO1 Jeffrey S. Taylor Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Navy PO1 Jeffrey S. Taylor Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 43 – "Requesting the Division of Highways name bridge number 16-048/00-008.59 (16A143), locally known as US 220 Overpass Bridge, carrying US 48 over US 220 in Hardy County, the 'U.S. Army 1LT Fred Omar Pratt Memorial Bridge'."

Whereas, Fred Omar Pratt was born on August 17, 1941, the son of Edwin M. Pratt, Sr., and Vern Hose Pratt of Moorefield of Hardy County; and

Whereas, On October 13, 1958, Fred Omar Pratt enlisted in the U.S. Army and served tours of duty in Japan, Korea, and Vietnam, and was a distinguished graduate of the Airborne School and served as a Ranger in the 101st Airborne Division in Vietnam during 1962. That same year, 1LT Fred Omar Pratt volunteered for Special Forces and returned to the United States for further

training. After winning the Green Beret, he was appointed to attend Officers' Candidate School in Fort Benning, Georgia. There, he was elected to the honored position of Council of President of the Battalion and was named distinguished graduate of his class; and

Whereas, First Lieutenant Fred Omar Pratt attended the U.S. Army's Rotary Wing Flight School and returned to Vietnam in June 1968. He served as a C Model Gun Ship Pilot in the 155th Assault Helicopter Company. On August 23, 1968, 1LT Fred Omar Pratt distinguished himself by exceptionally valorous actions while serving as pilot of a UH-1 Huey helicopter gunship supporting friendly Special Forces and MACV compounds in the vicinity of Duc Lop, South Vietnam, that were under attack by an enemy regiment. During the battle, 1LT Fred Omar Pratt observed a tree line in which large enemy forces had concentrated and began to attack the enemy force; and

Whereas, In the course of combat on August 23, 1968, 1LT Fred Omar Pratt's aircraft sustained numerous hits from anti-aircraft fire and was downed. Under heavy mortar and automatic weapons fire and being injured in the arm and back himself, 1LT Fred Omar Pratt tended to his seriously injured crew chief and exposed himself to enemy fire to summon aid for his crew. Upon reaching a secure area, 1LT Fred Omar Pratt continued to give aid to his injured crew chief while refusing treatment for himself; and

Whereas, On August 26, 1968, 1LT Fred Omar Pratt insisted on returning to battle in light of dire circumstances and aggressive actions by NVA forces whereby the enemy had captured half the camp. Upon arrival in the area of aggression, 1LT Fred Omar Pratt took actions against a large enemy force drawing heavy fire. During this engagement, he was fatally wounded. His co-pilot returned the heavily damaged gunship to the 155th AHC at Ban Me Thuot; and

Whereas, For his gallant and courageous efforts, 1LT Fred Omar Pratt was awarded the Silver Star for gallantry in action (Posthumous), the Distinguished Flying Cross for heroism (Posthumous), the Air Medal with Seven Oak Leaf Clusters, the Purple Heart (twice), the National Defense Service medal, the

Vietnam Service Medal, and the Republic of Vietnam Campaign Medal, two of the highest awards for bravery awarded by the Vietnamese government; and

Whereas, In June of 1974, the U.S. Army dedicated the Flight Simulator Building, Building 4901, at the U.S. Army Aviation School at Fort Rucker, Alabama as “Pratt Hall” in his honor. This building houses the most sophisticated flight simulator systems used to train Army Aviators; and

Whereas, First Lieutenant Fred Omar Pratt left behind a loving wife, three young sons, as well as his beloved brothers and sisters and many other family members and friends. Those who served with him were proud to do so, and one comrade stated that: “we wish for him a peaceful eternal rest and those who remember and mourn his sacrifice are mindful of his duty and service in fighting for and protecting the freedoms that we enjoy today”; and

Whereas, Many in the Moorefield, West Virginia community today still remember the young man who went off to serve his country and did not return; and

Whereas, It is fitting that an enduring memorial be established to commemorate 1LT Fred Omar Pratt and his contributions and sacrifice to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 16-048/00-008.59 (16A143), locally known as US 220 Overpass Bridge, carrying US 48 over US 220 in Hardy County, the “U.S. Army 1LT Fred Omar Pratt Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested have made and be placed signs identifying the bridge as the “U.S. Army 1LT Fred Omar Pratt Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Resolutions Introduced

Delegates R. Thompson, Hicks, Rodighiero and Evans offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 127 - "Requesting the Division of Highways name bridge number 50-152 / 00-34.00, locally known as Doctor Doctor Bridge, carrying WV Route 152 over Twelvepole Creek in Wayne County, the 'U. S. Army PFC Carl. J. Osburn Bridge'."

Whereas, Carl J. Osborn was drafted into the United States Army and reported for examination on July 23, 1943, and later was assigned for training at Fort Thomas and Fort McClellan. Eventually, Carl Osburn was assigned to 30th Infantry Regiment, 3rd Battalion, 3rd Infantry Division, and dispatched to Europe aboard a Liberty Ship; and

Whereas, After a total journey of 21 days, Carl Osborn landed at Anzio, Italy, where he soon encountered two other soldiers who also came from Wayne County, West Virginia; and

Whereas, Carl Osburn was wounded in his hip in May 1944, but later returned to active service. After training for an amphibious assault, his unit made an invasion of southern France and eventually made their way to Alsace-Lorraine; and

Whereas, On January 23, 1945, the battalion commander ordered the men across the Ill River on a wooden bridge. As American vehicles followed along behind, the bridge collapsed, trapping Carl Osburn and the others on the far side of the river. He and the others walked along the road until they spotted a German tank coming their direction. They dove into a ditch alongside the road and attempted to hide, but it was no use. The tank stopped near them, and a German soldier approached them, demanding they put up their hands. With no escape route, Carl Osburn and the others did as they were told. In total, between 75 and 100 Americans were captured. The captives were marched across the river to a town near the German border called Jepsheim. There they were loaded into cattle cars and shipped to Ludwigsburg, Germany

and placed in a POW camp. Osburn later reported that, while stationed in the camp, the prisoners were not beaten; however, the food situation was bad. The men were fed barley soup twice a day; and

Whereas, After the area was bombed several months later, the Americans were assembled into two columns and force-marched across southern Germany from April 1 until April 26. While on the march on April 12, the German soldiers notified the men that President Roosevelt had died. On the night of April 26, they were finally allowed to rest in an empty dairy barn for one night. On the morning of April 27, 1945, the POWs heard American vehicles coming up the road near the barn and were thrilled to see jeeps when they came in sight. Carl Osburn and the other prisoners were liberated. He was put on a C-47 and taken to a hospital in Le Havre, France where he was placed on a strict diet due to his emaciated condition. He remained in the hospital until June 9, 1945, before being sent back to the United States on a 72-day furlough. Carl Osburn arrived by train at the Huntington Depot where he was greeted by several family members and was able to spend his furlough at home with family in Booton, West Virginia; and

Whereas, Following his furlough, Carl Osburn finished out his service first in Miami Beach and then in San Francisco. After completing this service, Carl Osburn traveled back across the country, mustered out of active duty, and returned home at last. Since that time, Carl J. Osburn has spent his life in Wayne County, West Virginia and continues to serve his community and the membership of his church; and

Whereas, It is fitting that an enduring memorial be established to commemorate former Prisoner of War, U.S. Army PFC Carl J. Osburn, and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-152 / 00-34.00, locally known as Doctor Doctor

Bridge, carrying WV Route 152 over Twelvepole Creek in Wayne County, the “U. S. Army PFC Carl J. Osburn Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Carl J. Osburn Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 2, Requesting the Division of Highways name a portion of WV 3 Vietnam Veterans Memorial Highway,

H. C. R. 6, Clarence Watson Meadows Memorial Boulevard,

Com. Sub. for H. C. R. 10, Robert “Glen” Schoonover Memorial Bridge,

H. C. R. 11, U. S. Army SGT Robert R. “Bob” Defibaugh Memorial Bridge,

Com. Sub. for H. C. R. 15, Rose Agnes Rolls Cousins Bridge,

Com. Sub. for H. C. R. 23, U. S. Army Spec. 4, Roger Dale Griffith Memorial Bridge,

H. C. R. 27, U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge,

H. C. R. 28, U.S.M.C. Cpl Andrew Ryan White Memorial Bridge,

Com. Sub. for H. C. R. 30, U. S. Army Corporal C. O. “Skip” Johnson Memorial Bridge,

H. C. R. 40, The Hall Brothers Veterans Bridge,

Com. Sub. for H. C. R. 41, U. S. PFC Dennis Warren Baxter, USMC, Memorial Bridge,

Com. Sub. for H. C. R. 42, PFC David Henry Shiflett Memorial Bridge,

H. C. R. 47, U. S. Army Air Corps SSGT Charles Dexter Duncan Memorial Road,

H. C. R. 51, Gunsmiths Trace,

H. C. R. 60, U. S. Army PFC Teddy Ray Chandler Memorial Bridge,

H. C. R. 63, Sharp Military Brothers Bridge,

H. C. R. 64, U. S. Army SP5 Benny Ray Snodgrass Memorial Bridge,

H. C. R. 66, U. S. Army Sgt. Joseph W. McCutcheon Memorial Bridge,

H. C. R. 67, First Lieutenant Fred Omar Pratt Memorial Bridge,

H. C. R. 68, Kidd Brothers Veterans Memorial Bridge,

H. C. R. 79, U. S. Army Nurses Corps CPT Nancy Margret Kiess Memorial Bridge,

H. C. R. 80, U. S. Army Major Michael Alphonse Rafferty Memorial Bridge,

Com. Sub. for H. C. R. 82, Naming a portion of Buffalo Creek Road, In Memory of Tootsie Hensley, Please keep Buffalo Creek Litter Free,

H. C. R. 83, U. S. Army SFC Guy R. Hively Memorial Bridge,

H. C. R. 88, Johnnie Bryant Moore Memorial Bridge,

Com. Sub. for H. C. R. 90, Wood Brothers Memorial Bridge,
H. C. R. 91, Caldwell Brothers Memorial Road,
H. C. R. 92, Mayor Abraham E. Huddleston Memorial Bridge,
H. C. R. 99, U. S. Army CPL Russell Allen Taylor Memorial Bridge,
H. C. R. 103, French & Indian War Veterans Memorial Bridge,
H. C. R. 105, U. S. Air Force Colonel Rishel C. Walker Memorial Bridge,
And,
H. C. R. 122, Eustice Frederick Memorial Road.

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

H. R. 7, Designating a single state funeral to be held upon the death of the last living Medal of Honor recipient from World War II; on unfinished business, was reported by the Clerk and adopted.

Third Reading

Com. Sub. for S. B. 225, Empowering municipalities to enact Adopt-A-Street programs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 420**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 225) passed.

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

S. B. 307, Correcting code citation relating to certain tax liens; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 421**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 307) passed.

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

Com. Sub. for S. B. 529, Establishing limitations on claims and benefits against state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 422**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 529) passed.

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

Com. Sub. for S. B. 529 - “A Bill to amend and reenact §14-2-13a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §14-2A-14a, all relating to establishing limitations on claims and benefits; establishing a two-year time limit for a claimant to file a claim for unjust arrest, conviction, or imprisonment; and establishing a 10-year limitation on eligibility to receive benefits under certain conditions.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 423**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 529) takes effect July 1, 2020.

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

Com. Sub. for S. B. 554, Relating to termination, expiration, or cancellation of oil or natural gas leases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 424**), and there were—yeas 85, nays 8, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Canestraro, Diserio, Doyle, Hicks, Lovejoy, Rowe, C. Thompson and R. Thompson.

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 554) passed.

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

S. B. 572, Expiring funds from General Revenue and Lottery Net Profits to various accounts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 425**), and there were—yeas 82, nays 11, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Doyle, Fleischauer, Hansen, Lavender-Bowe, McGeehan, Miley, Porterfield, Robinson and Walker.

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 572) passed.

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

On this question, the yeas and nays were taken (**Roll No. 426**), and there were—yeas 55, nays 38, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, N. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Porterfield, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule,

Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

Com. Sub. for S. B. 576, Relating to management of public records; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 427**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 576) passed.

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

Com. Sub. for S. B. 686, Exempting contract and common carrier laws for certain vehicles; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin requested to be excused from voting on Com. Sub. for S. B. 686 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 428**), and there were—yeas 79, nays 14, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Anderson, Bates, Byrd, Canestraro, Capito, Criss, Doyle, Hicks, J. Kelly, Lovejoy, Pushkin, Robinson, Rowe and Williams.

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 686) passed.

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

Com. Sub. for S. B. 706, Clarifying duties of law-enforcement training and certification subcommittee; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 429**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 706) passed.

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

S. B. 789, Repealing obsolete sections of WV Code relating to Legislature; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 430**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 789) passed.

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

S. B. 816, Updating North American Industry Classification System code references; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 431**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 816) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 816) takes effect July 1, 2020.

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

S. B. 849, Relating to military service as factor in certain insurance coverage rates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 433**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 849) passed.

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

S. B. 849 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-40, relating to military service as a factor in certain insurance coverage rates; prohibiting an insurance company from increasing premiums while reinstating an insurance contract that was previously cancelled or suspended due to the military service of the insured; prohibiting an insurer from charging an increased premium for a new insurance contract when the applicant has had a policy from another insurer terminated as a result of military service; defining service with the National Guard; and requiring insurers to deem persons who have had an insurance policy suspended or terminated due to military service as having maintained continuous coverage.”

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

On this question, the yeas and nays were taken (**Roll No. 434**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, S. Brown, Evans, Kessinger, Kump, Steele, Storch and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 849) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 6, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights; on second reading, coming up in regular order, was read a second time.

Delegate Cadle moved to amend the bill on page three, section eleven, line sixty-nine, by striking out the period, and inserting the following proviso “: *Provided further*, That the Department of Transportation, Division of Motor Vehicles shall create and maintain a new permit, identifiable by a distinct additional widow decal, which permit shall be required for all vehicles carrying a maximum gross vehicular weight of 90,000 pounds or greater; the cost to the applicant to obtain and renew annually such permit shall be the same as those permits issued by the West Virginia Public Service Commission for vehicles specially permitted pursuant to §17C-17A-4 of this code, and shall be required, without exception, for each individual vehicle carrying a maximum gross vehicular weight of 90,000 pounds or greater as set forth in this §17C-17-11 of this code.”

Delegate Summers requested to be excused from voting on Com. Sub. for S. B. 6 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

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

The yeas and nays having been ordered, they were taken (**Roll No. 435**), and there were—yeas 19, nays 75, absent and not voting 6, with the yeas and absent and not voting being as follows:

Yeas: Bibby, Butler, Cadle, Canestraro, Diserio, Hornbuckle, Little, Lovejoy, Miley, Paynter, Pushkin, Pyles, Staggers, Swartzmiller, Toney, Walker, Williams, Wilson and Zukoff.

Absent and Not Voting: Angelucci, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading,

Com. Sub. for S. B. 96, Prohibiting municipalities from limiting persons' rights to possess certain weapons; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, after the enacting clause by striking out the remainder of the bill and inserting in lieu thereof the following:

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

§8-12-5a. Limitations upon municipalities' power to restrict the purchase, possession, transfer, ownership, carrying, transport, sale, and storage of certain weapons and ammunition.

(a) ~~Except as provided by the provisions of this section and the provisions of §8-12-5 of this code, neither~~ Neither a municipality

nor the governing body of any municipality may, by ordinance or otherwise, limit the right of any person to purchase, possess, transfer, own, carry, transport, sell, or store any ~~revolver, pistol, rifle or shotgun~~ deadly weapon, firearm, or pepper spray, or any ammunition or ammunition components to be used therewith nor to so regulate the keeping of gunpowder so as to directly or indirectly prohibit the ownership of the ammunition in any manner inconsistent with or in conflict with state law.

(b) For the purposes of this section:

(1) 'Deadly weapon' has the meaning provided in §61-7-2 of this code.

(2) 'Firearm' has the meaning provided in §61-7-2 of this code.

~~(4)~~ (3) 'Municipally owned or operated building' means any building that is used for the business of the municipality, such as a courthouse, city hall, convention center, administrative building, or other similar municipal building used for a municipal purpose permitted by state law: *Provided*, That 'municipally owned or operated building' does not include a building owned by a municipality that is leased to a private entity where the municipality primarily serves as a property owner receiving rental payments.

~~(2)~~ (4) 'Municipally owned recreation facility' means any municipal swimming pool, recreation center, sports facility, facility housing an after-school program, or other similar facility where children are regularly present.

(5) 'Pepper spray' means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(c)(1) A municipality may enact and enforce an ordinance or ordinances that prohibit or regulate the carrying or possessing of a ~~firearm~~ deadly weapon, firearm, or pepper spray in municipally owned or operated buildings.

(2) A municipality may enact and enforce an ordinance or ordinances that prohibit a person from carrying or possessing a ~~firearm~~ deadly weapon, firearm, or pepper spray openly or that is not lawfully concealed in a municipally owned recreation facility: *Provided*, That a municipality may not prohibit a person with a valid concealed handgun ~~permit~~ license from carrying an otherwise lawfully possessed firearm into a municipally owned recreation facility and securely storing the firearm out of view and access to others during their time at the municipally owned recreation facility.

(3) A person may keep an otherwise lawfully possessed ~~firearm~~ deadly weapon, firearm, or pepper spray in a motor vehicle in municipal public parking facilities if the vehicle is locked and the ~~firearm~~ deadly weapon, firearm, or pepper spray is out of view.

(4) A municipality may not prohibit or regulate the carrying or possessing of a ~~firearm~~ deadly weapon, firearm, or pepper spray on municipally owned or operated property other than municipally owned or operated buildings and municipally owned recreation facilities pursuant to subdivisions (1) and (2) of this section: *Provided*, That a municipality may prohibit persons who do not have a valid concealed handgun license from carrying or possessing a firearm on municipally owned or operated property.

(d) It shall be an absolute defense to an action for an alleged violation of an ordinance authorized by this section prohibiting or regulating the possession of a ~~firearm~~ deadly weapon, firearm, or pepper spray that the person: (1) Upon being requested to do so, left the premises with the ~~firearm~~ deadly weapon, firearm, or pepper spray or temporarily relinquished the ~~firearm~~ deadly weapon, firearm, or pepper spray in response to being informed that his or her possession of the ~~firearm~~ deadly weapon, firearm, or pepper spray was contrary to municipal ordinance; and (2) but for the municipal ordinance the person was lawfully in possession of the ~~firearm~~ deadly weapon, firearm, or pepper spray.

(e) Any municipality that enacts an ordinance regulating or prohibiting the carrying or possessing of a ~~firearm~~ deadly weapon, firearm, or pepper spray pursuant to subsection (c) of this section

shall prominently post a clear statement at each entrance to all applicable municipally owned or operated buildings or municipally owned recreation facilities setting forth the terms of the regulation or prohibition.

(f) Redress for an alleged violation of this section may be sought through the provisions of §53-1-1 *et seq.* of this code, which may include the awarding of reasonable attorney's fees and costs, if the petitioner prevails.

~~(g) Upon the effective date of this section, §61-7-14 of this code is inapplicable to municipalities.~~ For the purposes of §61-7-14 of this code, municipalities may not be considered a person charged with the care, custody, and control of real property.

(h) This section does not:

~~(1) Impair the authority of any municipality, or the governing body thereof, to enact any ordinance or resolution respecting the power to arrest, convict and punish any individual under the provisions of §8-12-5(16) of this code or from enforcing any such ordinance or resolution;~~

~~(2)~~ (1) Authorize municipalities to restrict the carrying or possessing of ~~firearms~~ deadly weapons, firearm, or pepper spray, which are otherwise lawfully possessed, on public streets and sidewalks of the municipality: *Provided*, That whenever pedestrian or vehicular traffic is prohibited in an area of a municipality for the purpose of a temporary event of limited duration, not to exceed fourteen days, which is authorized by a municipality, a municipality may prohibit persons who do not have a valid concealed handgun license from possessing a firearm in the area where the event is held or

~~(3)~~ (2) Limit the authority of a municipality to restrict the commercial use of real estate in designated areas through planning or zoning ordinances.”

Delegate D. Jeffries moved to amend the Judiciary Committee amendment on page four, section five-a, line sixty-seven,

following the word “municipality” and the semicolon, by striking out the following language:

~~“Provided, That whenever pedestrian or vehicular traffic is prohibited in an area of a municipality for the purpose of a temporary event of limited duration, not to exceed fourteen days, which is authorized by a municipality, a municipality may prohibit persons who do not have a valid concealed handgun license from possessing a firearm in the area where the event is held”~~

Delegate Capito arose to an inquiry of the Chair regarding the amendment to the amendment.

The Speaker ruled that the amendment to the amendment would have the effect of returning the amendment to the content of the Senate bill and was not in order.

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

The yeas and nays having been ordered, they were taken (**Roll No. 436**), and there were—yeas 27, nays 67, absent and not voting 6, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Bates, Byrd, Capito, Caputo, Cooper, Cowles, Doyle, Estep-Burton, Fleischauer, Hansen, Hornbuckle, D. Kelly, Longstreth, Miley, Nelson, Phillips, Pushkin, Pyles, Robinson, Rowe, Shott, Skaff, Walker, Westfall, Williams.

Absent and Not Voting: Angelucci, Evans, Kessinger, Kump, Steele and Storch.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading,

Com. Sub. for S. B. 201, Relating generally to criminal offenses of stalking and harassment; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-9a. Harassment; penalties; definitions.

~~(a) Any person who repeatedly follows another knowing or having reason to know that the conduct causes the person followed to reasonably engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or suffer significant emotional distress, is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than \$1,000, or both.~~

(a) Any person who engages in a course of conduct directed at another person with the intent to cause the other person to fear for his or her personal safety, the safety of others, or suffer substantial emotional distress, or causes a third person to so act, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, confined in jail for not more than six months, or both fined and confined.

(b) Any person who ~~repeatedly~~ harasses or repeatedly makes credible threats against another is guilty of a misdemeanor and, upon conviction thereof, shall be ~~incarcerated~~ confined in the county or regional jail for not more than six months, or fined not more than \$1,000, or both fined and confined.

(c) Notwithstanding any provision of this code to the contrary, any person who violates the provisions of subsection (a) or (b) of this section in violation of an order entered by a circuit court, magistrate court, or family court judge, in effect and entered pursuant to §48-5-501, §48-5-601, or §48-27-403 of this code, is guilty of a misdemeanor and, upon conviction thereof, shall be ~~incarcerated~~ confined in the ~~county~~ jail for not less than 90 days nor more than one year, or fined not less than \$2,000 nor more than \$5,000, or both fined and confined.

(d) A second or subsequent conviction for a violation of subsection (a) or (b) of this section occurring within five years of a prior conviction is a felony punishable by incarceration imprisonment in a state correctional facility for not less than one year nor more than five years, or fined not less than \$3,000 nor more than \$10,000, or both fined and confined imprisoned.

(e) Notwithstanding any provision of this code to the contrary, any person against whom a protective order is in effect for injunctive relief pursuant to the provisions of §48-5-608 or §48-27-501 of this code, who has been served with a copy of said order, who commits a violation of the provisions of this section, in which the subject in the protective order is the victim, shall be guilty of a felony and, upon conviction thereof, be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not less than \$3,000 nor more than \$10,000, or both fined and imprisoned.

(f) Notwithstanding any provision of this code to the contrary, any person against whom a protective order is in effect pursuant to the provisions of §53-8-7 of this code, who has been previously served with a copy of said order, who commits a violation of the provisions of this section, in which the subject in the protective order is the victim, is guilty of a felony and punishable by imprisonment in a state correctional facility for not less than one year nor more than five years, or fined not less than \$3,000 nor more than \$10,000, or both fined and confined.

(g) Notwithstanding any provision of this code to the contrary, any person who harasses another person with the intent to cause the person to physically injure himself or herself, or to take his or her own life, or who continues to harass another, knowing or having reason to know that the person is likely to physically injure himself or herself, or to take his or her own life based, in whole or in part, on such harassment, is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two years nor more than 10 years.

(f) (h) For the purposes of this section:

(1) 'Bodily injury' means substantial physical pain, illness, or any impairment of physical condition;

(2) 'Course of conduct' means a pattern of conduct composed of two or more acts in which a defendant directly, indirectly, or through a third party by any action, method, device, or means:

(A) Follows, monitors, observes, surveils, or threatens a specific person or persons;

(B) Engages in other non-consensual contact and/or communications, including contact through electronic communication, with a specific person or persons; or

(C) Interferes with or damages a person's property or pet.

~~(2)~~ (3) 'Credible threat' means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out;

~~(3)~~ (4) 'Harasses' means a willful course of conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress and which serves no legitimate or lawful purpose;

(4) (5) 'Immediate family' means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household; and

~~(5)~~ (6) 'Repeatedly' means on two or more occasions.

~~(H)~~ (i) Any person convicted under the provisions of this section who is granted probation or for whom execution or imposition of a sentence or incarceration is suspended, ~~is to~~ shall have as a condition of probation or suspension of sentence that he or she participate in counseling or medical treatment as directed by the court.

~~(j)~~ (j) Upon conviction, the court may issue an order restraining the defendant from any contact with the victim for a period not to exceed 10 years. The length of any restraining order shall be based upon the seriousness of the violation before the court, the probability of future violations, and the safety of the victim or his or her immediate family. The duration of the restraining order may be longer than five years only in cases when a longer duration is necessary to protect the safety of the victim or his or her immediate family.

~~(j)~~ (k) It is a condition of bond for any person accused of the offense described in this section that the person is to have no contact, direct or indirect, verbal or physical, with the alleged victim.

~~(k)~~ (l) Nothing in this section may be construed to preclude a sentencing court from exercising its power to impose home confinement with electronic monitoring as an alternative sentence.

~~(l)~~ (m) The Governor's Committee on Crime, Delinquency, and Correction, after consultation with representatives of labor, licensed domestic violence programs, and rape crisis centers which meet the standards of the West Virginia Foundation for Rape Information and Services, is authorized to promulgate legislative rules and emergency rules pursuant to §29A-3-1 *et seq.* of this code, establishing appropriate standards for the enforcement of this section by state, county, and municipal law-enforcement officers and agencies.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 562, Expunging certain criminal convictions; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk, as follows:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 11. GENERAL PROVISIONS CONCERNING
CRIMES.**

**§61-11-25. Expungement of criminal records for those found
not guilty of crimes or against whom charges have been
dismissed.**

(a) Any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense, ~~may file a civil petition in the circuit court in which the charges were filed to expunge~~ shall have all records relating to the arrest, charge or other matters arising out of the arrest or charge expunged: *Provided*, That no record in the Division of Motor Vehicles may be expunged by virtue of any order of expungement entered pursuant to ~~section two b, article five, chapter seventeen C~~ §17C-5-2b of this code: *Provided, however, further*, That any person who has previously been convicted of a felony may ~~not~~ file a petition for expungement of dismissed charges pursuant to this section. The term records as used in this section includes, but is not limited to, arrest records, fingerprints, photographs, index references or other data whether in documentary or electronic form, relating to the arrest, charge or other matters arising out of the arrest or charge. Criminal investigation reports and all records relating to offenses subject to the provisions of ~~article twelve, chapter fifteen of this code~~ §15-12-1, et seq. of this code because the person was found not guilty by reason of mental illness, mental retardation or addiction are exempt from the provisions of this section.

(b) The expungement ~~petition~~ shall be ~~filed~~ completed not sooner than ~~sixty~~ ninety days following the order of acquittal or dismissal by the court, and not later than six months. Any court entering an order of acquittal or dismissal shall inform the person who has been found not guilty or against whom charges have been dismissed of his or her rights to ~~file a petition for~~ expungement pursuant to this section.

~~(e)~~ Following the filing of the petition, the court may set a date for a hearing. ~~If the court does so, it shall notify the prosecuting attorney and the arresting agency of the petition and provide an opportunity for a response to the expungement petition.~~

~~(d)~~ (c) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official including law enforcement records. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within ~~sixty days~~ six months of the entry of the expungement order, that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed. Compliance with this section may only be compelled by writ of mandamus.

~~(e)~~ (d) Upon expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application.

~~(f)~~ (e) Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that the interests of justice will be served by granting the petition, it may be granted.

~~(g)~~ (f) There shall be no filing fees charged or costs assessed for filing an action pursuant to this section.

§61-11-26. Expungement of certain criminal convictions; procedures; effect.

(a) *Eligibility for expungement.* —

(1) *Misdemeanors.* —

Subject to the limitations set forth in this section, a person convicted of a misdemeanor offense or offenses may, pursuant to the provisions of this section, petition the circuit court in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated with the conviction or convictions. A person seeking expungement of convictions in multiple counties may file a petition for expungement in his or her county of residence, or if not a resident of this state in the counties wherein convictions occurred: Provided, That the provisions of this section, or where applicable §61-11-26a of this code, are otherwise met.

(2) *Nonviolent felonies.* —

Subject to the limitations set forth in this section, a person convicted of a nonviolent felony offense or offenses arising from the same transaction or series of transactions may, pursuant to the provisions of this section, petition the circuit court in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated with the conviction or convictions.

(b) *Temporal requirements.* —

(1) *Misdemeanor.* — A person is not eligible for expungement pursuant to subdivision (1), subsection (a) of this section until one year after conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(2) *More than one misdemeanor.* — A person is not eligible for expungement of multiple misdemeanors pursuant to subdivision (1), subsection (a) of this section until two years after the last conviction, completion of any sentence of incarceration, or

completion of any period of supervision ordered for the last conviction, whichever is later in time.

(3) *Nonviolent felonies.* — A person is not eligible for expungement of a nonviolent felony pursuant to subdivision (2), subsection (a) of this section until five years after conviction, completion of any sentence of incarceration, or completion of any period of supervision, whichever is later in time.

(c) *Limitations on eligibility for expungement.* — A person is not eligible for expungement pursuant to subsection (a) of this section for convictions of the following offenses:

(1) Any felony offense of violence against the person as defined in subdivision (2), subsection (p) of this section or any misdemeanor offense involving the intentional infliction of physical injury to a minor or law-enforcement officer;

(2) Any felony offense in which the victim of the crime was a minor as defined in subdivision (3), subsection (p) of this section;

(3) Any violation of §61-8B-1 *et seq.* of this code;

(4) Any offense in which the petitioner used or exhibited a deadly weapon or dangerous instrument;

(5) Any violation of §61-2-28 of this code, or any offense which violates §61-2-9(b) or §61-2-9(c) of this code in which the victim was a spouse, a person with whom the person seeking expungement had a child in common, or with whom the person seeking expungement ever cohabited prior to the offense or a violation of §61-2-28(c) of this code;

(6) Any violation of §61-2-29 of this code;

(7) Any offense of driving under the influence of alcohol or a controlled substance;

(8) Any offense which violates §17B-4-3 of this code;

(9) Any offense which violates §61-8-12 or §61-8-19 of this code;

(10) Any violation of §61-2-9a of this code;

(11) Any violation of §61-8B-8 and §61-8B-9 of this code;

(12) Any violation of §61-3-11 of this code, involving a structure regularly used as a dwelling;

(13) Any conviction for which the sentencing judge made a written finding that the offense was sexually motivated;

(14) Any offense which violates §17E-1-13(g) of this code; and

(15) Any offense of conspiracy or attempt to commit a felony set forth in subdivisions (1) through (11) and (13), inclusive, of this subsection.

Provided, That expungement of a felony conviction that is otherwise eligible for expungement shall not be denied on the sole basis that the applicant has been convicted of a separate offense of driving under the influence of alcohol or a controlled substance which is not eligible for expungement.

(d) *Content of petition for expungements.* — Each petition to expunge a conviction or convictions pursuant to this section shall be verified under oath and include the following information: *Provided, That a petition for the expungement of multiple misdemeanors shall identify and group such information by circuit court, as applicable, from which expungement of a particular conviction or convictions is being sought:*

(1) The petitioner's current name and all other legal names or aliases by which the petitioner has been known at any time;

(2) All of the petitioner's addresses from the date of the offense in connection with which an expungement order is sought to date of the petition;

(3) The petitioner's date of birth and Social Security number;

(4) The petitioner's date of arrest, the court of jurisdiction, and criminal complaint, indictment, summons, or case number;

(5) The statute or statutes and offense or offenses for which the petitioner was charged and of which the petitioner was convicted;

(6) The names of any victim or victims, or a statement that there were no identifiable victims;

(7) Whether there is any current order for restitution, protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victim or whether there has ever been a prior order for restitution, protection, or restraining order prohibiting the petitioner from contacting the victim. If there is a current order, the petitioner shall attach a copy of that order to his or her petition;

(8) The disposition of the matter and sentence imposed, if any;

(9) The grounds on which expungement is sought, including, but not limited to, employment or licensure purposes;

(10) The steps the petitioner has taken since the time of the offense or offenses toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(11) Whether petitioner has ever been granted expungement or similar relief regarding a criminal conviction by any court in this state, by the court of any other state, or by any federal court; and

(12) Any supporting documents, sworn statements, affidavits, or other information supporting the petition for expungement.

(e) *Service of petition for expungement.* — The petitioner shall serve a copy of the petition, with any supporting documentation, pursuant to the rules of the trial court upon the following persons or entities:

(1) The Superintendent of the State Police;

(2) The prosecuting attorney of the county or counties of conviction;

~~(3) The chief of police or other executive head of the municipal police department where the offense was committed;~~

(4) ~~(3)~~ The chief law-enforcement officer of ~~any other~~ the law-enforcement agency which ~~participated in the arrest of~~ arrested the petitioner;

~~(5)~~ (4) The superintendent, ~~or warden,~~ or the Commissioner of Corrections of any institution in which the petitioner was confined or imprisoned pursuant to the conviction; and

~~(6)~~ (5) The circuit court, magistrate court, or municipal court which disposed of the petitioner's criminal charge.

(f) The prosecuting attorney of the county in which expungement is sought shall serve the petition for expungement, accompanying documentation, and any proposed expungement order by first class mail to any identified victims.

(g) *Notice of opposition.* —

(1) Upon receipt of a petition for expungement, the persons and entities listed in subsection (e) of this section, and any other interested person or agency that desires to oppose the expungement may, within 30 days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for expungement.

(2) A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with trial court rules.

(3) The petitioner may file a reply to a notice of opposition no later than 30 days after service of any notice of opposition to the petition for expungement.

(h) *Burden of proof.* — The burden of proof shall be on the petitioner seeking an order of expungement to prove by clear and convincing evidence:

(1) That the conviction or convictions for which expungement is sought are the only convictions for that specified offense or offenses against the petitioner in this state and that the conviction or convictions are not excluded from expungement by the provisions of this section;

(2) That the requisite time has passed since the conviction or convictions or the completion of any sentence of incarceration or period of supervision as set forth in subsection (b) of this section;

(3) That the petitioner has no criminal charges pending against him or her;

(4) That the expungement is consistent with the public welfare;

(5) That the petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and is law-abiding; and

(6) Any other facts considered appropriate or necessary by the court to make a determination regarding the petition for expungement.

(i) *Court procedure for petition for expungement.* — Within 60 days of the filing of a petition for expungement the circuit court shall:

(1) Summarily grant the petition;

(2) Return the petition to the petitioner to supply incomplete information or correct obvious errors in order to permit consideration of the petition on its merits;

~~(2)~~ (3) Set the matter for hearing; or

~~(3)~~ (4) Summarily deny the petition if the court determines ~~that~~ the petition discloses on its face is insufficient or, based upon supporting documentation and sworn statements filed in opposition to the petition, ~~the court determines~~ discloses that the petitioner, as a matter of law, is not entitled to expungement.

(j) *Hearing on petition for expungement.* —

If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence, and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter the court considers proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for expungement with appropriate findings of fact and conclusions of law.

(k) *Sealing of records.* — If the court grants the petition for expungement, it shall order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official, including law-enforcement records. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or conviction that is ordered to expunge records shall certify to the court within 60 days of the entry of the expungement order that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed.

(l) *Disclosure of expunged matters.* —

(1) Subject to the exceptions set forth in this section, upon expungement, the proceedings in the matter shall be considered, as a matter of law, never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating to the record on an application for employment, credit, or other type of application: *Provided*, That any person applying for a position in which he or she would be engaging in the prevention, detection, investigation, prosecution, or incarceration of persons for violations of the law shall disclose any and all convictions to his or

her prospective employer, regardless of whether the conviction or convictions have been expunged pursuant to this section.

(2) A person for whom an order of expungement has been entered pursuant to this section may not be found guilty of perjury or otherwise giving a false statement, under any provision of this code, because of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction, as long as the person is in compliance with subdivision (1) of this subsection.

(3) Notwithstanding any provisions of this code to the contrary, any person required by state or federal law to obtain a criminal history record check on a prospective employee are authorized to have knowledge of any convictions expunged under this section.

(m) *Inspection of sealed records.* — Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that there is a legitimate reason for access and the interests of justice will be served by granting a petition to inspect the sealed record, it may grant access under the terms and conditions determined by the court.

(n) *Fees for filing petition for expungement and processing orders of expungement.* — The clerk of the circuit court shall charge and collect in advance the same fee for a petition for expungement as is charged for instituting a civil action pursuant to §59-1-11(a)(1) of this code. A person obtaining an order of expungement pursuant to the provisions of this section shall pay a fee of \$100 to the records division of the West Virginia State Police for the cost of processing the order of expungement deposited into a special revenue account within the State Treasurer's office to be known as the West Virginia State Police Criminal History Account.

(o) Notwithstanding any provision of this code to the contrary, a person may only obtain the relief of expungement afforded by the provisions of this section and §61-11-26a of this code once.

(p) For the purposes of this section:

(1) ‘Court record’ means an official record of a court about a proceeding that the clerk of the court or other court personnel maintains. “Court record” includes an index, a docket entry, a petition or other pleading, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment.

(2) ‘Expungement’ means the removal from all public records, other than those specifically exempted therefrom by the provisions of this section and §61-11-26a of this code, all evidence that a person has been charged or convicted of a crime.

~~(2)~~ (3) ‘Felony crime of violence against the person’ means those felony offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, and §61-8D-1 *et seq.* of this code.

~~(3)~~ (4) ‘Felony offenses in which the victim was a minor’ means felony violations of §61-3C-14b, §61-8-1 *et seq.*, §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(4) (5) ‘Nonviolent felony’ means a felony that:

(A) Is not an offense listed in subsection (c) of this section;

(B) Is not an offense involving the intentional infliction of serious bodily injury;

(C) Is an offense the conviction of which is based on facts and circumstances of which the circuit court finds to be consistent with the purposes of this article; and

(D) Is an offense the conviction of which the circuit court finds does not involve violence or potential violence to another person or the public.

~~(5)~~ (6) ‘Records’ do not include the records of the Governor, the Legislature, or the Secretary of State that pertain to a grant of pardon. Records that pertain to a grant of pardon are not subject to an order of expungement.

~~(6)~~ (7) ‘Seal’ means removing information from public inspection in accordance with this section.

~~(7)~~ (8) ‘Sealing’ means:

(A) For a record kept in a courthouse, removing the record to a separate, secure area to which persons who do not have a legitimate reason for access are denied access;

(B) For electronic information about a proceeding on the website maintained by a magistrate court, circuit court, or the Supreme Court of Appeals, removing the record from the public website; and

(C) For a record maintained by any law-enforcement agency, removing the record to a separate, secure area to which persons who do not have a legitimate reason for access are denied access.

(q) *Statutory construction.* — Nothing in this section may be construed to allow a person obtaining relief pursuant to this section to be eligible for reinstatement of any retirement or employment benefit which he or she lost or forfeited due to the conviction or convictions expunged.

(r) The enactment of this section during the 2019 regular session of the Legislature includes the repeal of the provisions of §61-11B-1 *et seq.* of this code. Any person that had a sentence reduction pursuant to the provisions of §61-11B-1 *et seq.* of this code may petition the court of record to have the criminal offense reduction order converted into an order of expungement. Upon verification by the court that the petitioner qualifies, the court shall enter an order of expungement of the petitioner’s conviction.

§61-11-26a. Expungement of certain criminal convictions with approved treatment or recovery and job program.

(a) Notwithstanding any provisions of §61-11-26 of this code to the contrary, any person who has been convicted of a nonviolent felony offense or multiple misdemeanors and that would be eligible for expungement pursuant to the provisions of §61-11-26 of this code and who: (1) Has a medically documented history of

substance abuse and of successful compliance with a substance abuse treatment or recovery and counseling program approved by the Secretary of the Department of Health and Human Resources; or (2) graduates from a West Virginia Department of Education-approved job readiness adult training course, or both, if applicable, may petition the circuit court or circuit courts in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated therewith as provided in §61-11-26 of this code as follows:

(1) Any person who has been convicted of a single misdemeanor that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is eligible for expungement pursuant to §61-11-26(a)(1) of this code upon successful compliance with an approved substance abuse treatment and recovery and counseling program for 90 days or upon completion of an approved job readiness adult training course, or both, if applicable, but after the completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(2) Any person who has been convicted of multiple misdemeanors that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section is not eligible for expungement pursuant to §61-11-26(a)(1) of this code until one year after the last conviction, completion of any sentence of incarceration, or completion of any period of supervision ordered for the last conviction, whichever is later in time.

(3) Any person who has been convicted of a nonviolent felony offense that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section is not eligible for expungement pursuant to §61-11-26(a)(2) of this code until three years after conviction, completion of any sentence of incarceration, or completion of any period of supervision, whichever is later in time.

(b) In addition to the required content of a petition for expungement as required by §61-11-26(d) of this code, any person

petitioning for an expungement pursuant to the provisions of this section shall also include the following, if applicable:

(1) Documentation of compliance with an approved treatment or recovery and counseling program; and

(2) Certificate of graduation from an approved job readiness adult training course.

~~(c) A person may file only one petition for expungement, to the circuit court or circuit courts as applicable, pursuant to the provisions of this section and the provisions of §61-11-26 of this code~~

~~(d)~~ (c) The fee of \$100 to the records division of the West Virginia State Police for the cost of processing the order of expungement required in §61-11-26(n) of this code is waived for petitions of expungement filed pursuant to the provisions of this section.”

On motion of Delegate Shott, the Judiciary Committee amendment was amended on page three, line fifty-one, after the word “convictions” and the period, by striking out the remainder of the paragraph.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 583, Creating program to further development of renewable energy resources; on third reading, coming up in regular order, was reported by the Clerk.

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

Com. Sub. for S. B. 649, Permitting county emergency phone system directors negotiate contracts for mobile phones; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 651, Relating to definition of “mortgage loan originator”; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 125, Prohibiting victim from being subjected to certain physical examinations for sexual offenses,

Com. Sub. for S. B. 144, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation,

Com. Sub. for S. B. 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator,

Com. Sub. for S. B. 175, Requiring certain agencies maintain website which contains specific information,

Com. Sub. for S. B. 208, Protecting consumers from unfair pricing practices during state of emergency,

Com. Sub. for S. B. 230, Requiring State Board of Education provide routine education in suicide prevention,

Com. Sub. for S. B. 261, Creating criminal penalties for introducing ransomware into computer with intent to extort,

Com. Sub. for S. B. 288, Relating to family planning and child spacing,

S. B. 289, Creating Green Alert Plan,

Com. Sub. for S. B. 303, Enacting Students’ Right to Know Act,

Com. Sub. for S. B. 491, Relating to Seed Certification Program,

S. B. 510, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties,

Com. Sub. for S. B. 530, Relating to taxation of aircraft,

S. B. 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund,

S. B. 569, Expiring funds from various accounts to DHHR, Medical Services Program Fund,

Com. Sub. for S. B. 570, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund,

Com. Sub. for S. B. 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian,

S. B. 641, Allowing WVCHIP flexibility in rate setting,

S. B. 647, Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders,

Com. Sub. for S. B. 689, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act,

Com. Sub. for S. B. 692, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial,

Com. Sub. for S. B. 705, Allowing military veterans with certain experience qualify for examination as electrician or plumber,

Com. Sub. for S. B. 746, Providing contracted managed care companies access to uniform maternal screening tool,

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan,

S. B. 748, Increasing awareness of palliative care services,

Com. Sub. for S. B. 749, Requiring Fatality and Mortality Review Team share data with CDC,

Com. Sub. for S. B. 751, Removing certain requirements of municipality annexing property within urban growth boundary,

S. B. 767, Relating to licensure of hospitals,

Com. Sub. for S. B. 770, Revising requirements for post-doctoral training,

S. B. 803, Supplemental appropriation of money out of General Revenue Fund to DHHR,

S. B. 804, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund,

S. B. 805, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund,

S. B. 806, Supplemental appropriation out of federal funds in Treasury to DOT,

S. B. 812, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services,

S. B. 838, Directing state police establish referral program for substance abuse treatment,

S. B. 851, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards,

And,

Com. Sub. for H. B. 4021, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 195, Updating powers of personal representatives of deceased person's estate,

Com. Sub. for S. B. 213, Relating to administration of trusts,

Com. Sub. for S. B. 660, Regulating electric bicycles,

And,

Com. Sub. for S. B. 662, Removing restrictions on fiduciary commissioners,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 668, Enacting Uniform Trust Decanting Act,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 614, Changing method of allocating funding from Safe School Funds,

And,

Com. Sub. for S. B. 615, Declaring certain claims against state as moral obligations of state,

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

On motions for leave, the following resolutions were introduced (Originating in the Committee on Government Organization and reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which were read by their title, as follows:

By Delegates Howell, C. Martin, Azinger, Barnhart, Cadle, Caputo, Diserio, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sybolt, Tomblin, Walker, Wilson and Worrell:

H. C. R. 128 – “Requesting the Joint Committee on Government and Finance study how state agencies can better manage the amount of state taxpayer dollars spend on utilities.”

Whereas, The State of West Virginia maintains and operates hundreds of buildings across the state; and

Whereas, The State of West Virginia agencies and higher education institutions have no comprehensive accounting of the total dollars spent on heating, air conditioning and lighting each year for buildings maintained and operated by the state; and

Whereas, State buildings have been built, renovated and leased with inefficient and outdated heating and air conditioning systems at significant costs; and

Whereas, Commercial buildings can waste as much as 30% of the energy used annually, according to a recent study by the Massachusetts Institute of Technology (MIT); and

Whereas, West Virginia lags behind other states in the development of energy management businesses; and

Whereas, The state agency and college and university and college owned buildings have significant deferred maintenance needs and the state has no real accounting of the total needs or strategy to provide the needed maintenance; and

Whereas, Other states have employed strategies to identify and address deferred maintenance; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the cost of utilities by state agencies; and, be it

Further Resolved, The study shall catalog the deferred maintenance needs for state agencies in regard to equipment that heats, cools and provides lighting for state agencies; and, be it

Further Resolved, The study will also provide recommendations on strategies to help ensure the state reduce costs by replacing needed heating, cooling and lighting infrastructure and equipment; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate any recommendations; and, be it

Further Resolved, That the West Virginia Office of Energy which is part of the Department of Commerce, the Department of Administration, the Higher Education Policy Commission, The Department of Health and Human Resources, The Department of Corrections and other state agencies are requested to cooperate with the Legislature as it conducts this study; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, C. Martin, Azinger, Barnhart, Cadle, Caputo, Diserio, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker, Wilson and Worrell:

H. C. R. 129 - “Requesting the Joint Committee on Government and Finance study the professional and occupational licensing policies, procedures and regulatory practices that impact workers in this state.”

Whereas, Residents of this state engaged in professions and occupations are frequently required to obtain a license, registration or certification, which can stand as a barrier to entry into gainful employment; and

Whereas, Professional and occupational regulation is administered by a variety of regulatory agencies, boards, and commissions, with varying overhead expenses and the costs of obtaining a license vary by profession and occupation, in a manner that appears to be inconsistent and lacks uniformity across the professional and occupational spectrum; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the professional and occupational licensing policies, procedures, and regulatory practices that impact workers in this state; and, be it

Further Resolved, That all professional and occupational licensing entities shall cooperate with the Legislature in the conduct of this study by providing to the Joint Standing Committee on Government Organization on or before June 1, 2020, a copy of the regulatory body’s 2019 Annual Report or, where an annual report has not been produced in the previous 2 years, the regulatory body shall prepare a report of its activities for the preceding two years, containing the following information for that period: (1) The total receipts and itemized disbursements for each year; (2) A list of amounts received in each year for the following categories of receipts: (A) License applications, registrations and renewals; (B) Examination fees, if applicable; (C) Other fees, including late fees, copying charges and fees for printed certificates; (D) Fines or

penalties; (E) Expense reimbursements from disciplinary actions; and (F) Grants, special appropriations or other sources of revenue not from fees; (3) A list of amounts spent in each year for the following categories of expenditures: (A) Personal services; (B) Board member per diem compensation; (C) Travel expenses and automobile mileage; (D) Professional contracts; (E) Rent; (F) Office supplies; (G) Postage; (H) Entertainment and hosting; (I) Insurance; and (J) Bank costs; (4) A complete list of the names of all persons newly licensed or registered; (5) A table or list showing numbers of licensees or registrants by West Virginia county of practice or, for out-of-state licensees or registrants, by state of residence, and by specialty, if appropriate to the particular profession; (6) Complaints filed and investigations opened by the regulatory body, with a brief classification of the nature of the complaint, together with the dates of compliance with any time requirements and a description of the disposition, if any; (7) In addition to complaints reported under the preceding subsection, complaints resolved and investigations closed by the regulatory body, with a brief classification of the nature of the complaint, together with the dates of compliance with any time requirements, and the disposition, if any; and (8) Copies of the agendas for, and minutes of, the regulatory body meeting and any committee or subcommittee meetings; and, be it

Further Resolved, That the Joint Committee on Government Organization shall forward a copy of this study resolution to each professional and occupational regulatory body and schedule an entrance interview with each; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And,

By Delegates Howell, C. Martin, Azinger, Barnhart, Cadle, Caputo, Diserio, Hamrick, Hansen, Hanna, Hicks, Hott, D. Jeffries, J. Jeffries, Jennings, Little, Pyles, Staggers, Sypolt, Tomblin, Walker, Wilson and Worrell:

H. C. R. 130 - "Requesting the Joint Committee on Government and Finance to study the adoption and enforcement of the municipal building codes and property maintenance codes as to the appropriateness of requiring submission of such codes through the Legislative Rule-Making process prior to implementation and enforcement."

Whereas, The Legislature is committed to ensuring that the implementation and enforcement of regulations across the state are uniformly predictable and do not serve to obstruct the citizens of this state, or overly burden business and industry; and

Whereas, With 55 County Governments each implementing and enforcing separate municipal building codes and property maintenance codes, the potential exists to have divergent and contradictory regulatory schemes in neighboring counties and across this state, creating confusion and business uncertainty among the regulated communities; and

Whereas, Building and property maintenance codes are intended to protect the well-being of the citizens of this state and provide uniform predictable regulations that business and industry can rely on, encouraging them to build, locate and remain in this state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the adoption and enforcement of the municipal building codes and property maintenance codes as to the appropriateness of requiring submission of such codes through the Legislative Rule-Making process prior to implementation and enforcement; and, be it

Further Resolved, That all state and local building code administrators and building code enforcement officers shall

cooperate with the Legislature in the conduct of this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2021, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolutions (H. C. R. 128, H. C. R. 129 and H. C. R. 130) to the Committee on Rules.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Angelucci, Evans, Kessinger, Kump, Steele and Storch.

At 2:17 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 2, 2020.

Monday, March 2, 2020

FIFTY-FIFTH DAY

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Saturday, February 29, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 4975, Making a supplementary appropriation to the School Building Authority, Debt Service Fund,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4975 - "A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, Lottery Net Profits, to the State Department of Education, School Building Authority, fund 3963, fiscal year 2020, organization 0402 by supplementing and amending Chapter 31, Acts of the Legislature, Regular Session, 2019, known as the budget bill for the fiscal year ending June 30, 2020,"

And,

H. B. 4976, Making a supplementary appropriation to the School Building Authority,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4976 - "A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the State Department of Education, School Building Authority, Fund 3514, fiscal year 2020, organization 0402 by supplementing and amending Chapter 31, Acts of the Legislature, Regular Session, 2019, known as the budget bill for the fiscal year ending June 30, 2020,"

With the recommendation that the committee substitutes each do pass.

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

Your Committee on Finance has had under consideration:

S. B. 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System,

Com. Sub. for S. B. 729, Relating to awards and disability under Deputy Sheriff Retirement Act,

And,

Com. Sub. for S. B. 793, Relating to B&O taxes imposed on certain coal-fired electric generating units,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 691, Limiting programs adopted by State Board of Education,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 707, Relating to nursing career pathways,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 723, Requiring Department of Education develop plan based on analyzed data on school discipline,

And,

S. B. 839, Creating State Advisory Council on Postsecondary Attainment Goals,

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

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

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

S. B. 830, Eliminating special merit-based employment system for health care professionals,

And,

S. B. 846, Requiring hospital publish notification prior to facility closure regarding patient medical records,

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

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

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

Com. Sub. for S. B. 648, Providing dental coverage for adult Medicaid recipients,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 648) was referred to the Committee on Finance.

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

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

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization,

Com. Sub. for S. B. 762, Creating Preserving Patient Stability Act of 2020,

And,

Com. Sub. for S. B. 820, Authorizing DHHR transfer comprehensive community mental health centers and intellectual disability facilities to regional centers and facilities,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 716, Com. Sub. for S. B. 762 and Com. Sub. for S. B. 820) were each referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2149, Relating to the Farm-To-Food Bank Tax Credit.

A message from the Senate, by

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

H. B. 4437, Relating to the West Virginia Pay Card program.

A message from the Senate, by

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

Com. Sub. for H. B. 4513, Increasing the replacement costs required of a person causing injury or death of game or protected species.

A message from the Senate, by

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

H. B. 4582, Declaring certain claims against agencies of the state to be moral obligations of the state.

A message from the Senate, by

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

Com. Sub. for S. B. 150 - “A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 150) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 241, Requiring State Board of Education develop method for student transportation costs as stand-alone consideration.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 523, Extending deadline for municipalities to offer Social Security coverage to certain municipal retirement system members.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect from passage, of

S. B. 552, Requiring contracts of \$25,000 or more be competitively bid.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 571, Expiring funds from State Excess Lottery Revenue Fund to various accounts.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect from passage, of

S. B. 652, Authorizing School Building Authority promulgate legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 661 - “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to replacing minimum minutes of instructional time required per day with a requirement for an average of five hours per day throughout the instructional term; and requiring county boards of education to provide public notice of public hearings for discussing the school calendar by publishing prominently on the board’s website in addition to publishing in a local newspaper of general circulation in the area”; which was referred to the Committee on Finance then Education.

Resolutions Introduced

Delegates Sypolt, Williams, Walker, Pyles and Jennings offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 16 - “Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum

gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia.”

Whereas, Federal law currently imposes a maximum gross vehicle weight of 80,000 pounds on interstate highways, without any tolerance, and with axle weight restrictions and the bridge formula often reducing such maximum weight; and

Whereas, West Virginia also has an 80,000-pound maximum gross vehicle weight limit, but permits a 10-percent tolerance, raising the permissible maximum weight to 88,000 pounds; and

Whereas, Vehicles transporting commodities through West Virginia often reach our state on interstate highways, but leave the interstate highways system and switch to West Virginia’s local roads, taking advantage of the higher weight limit on such routes; and

Whereas, Such practice increases traffic on West Virginia’s mountainous country roads, raises safety concerns, and limits economic avenues; and

Whereas, Interstates could safely support the same weight restrictions as those on U.S. routes in West Virginia given that the design standards used for both systems are identical and the weight increase would be minimal; and

Whereas, The West Virginia Department of Transportation, Division of Highways, is poised to address any questions Congress or the U.S. Department of Transportation, Federal Highway Administration, may have to demonstrate the feasibility of this request; and

Whereas, Providing an exception to the existing weight limits and restrictions in Title 23 of the United States Code, including the bridge formula, for vehicles operating on interstate highways in West Virginia will allow more vehicles to travel the safer interstate highways and expand economic access throughout West Virginia; and

Whereas, Congress has previously provided exceptions to the maximum gross vehicle weight on interstate highways for several states of the United States; therefore, be it

Resolved by the House of Delegates:

That Congress is urged to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's congressional delegation.

Delegates Sponaugle, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 17 - "Expressing the disapproval of the House of Delegates to State Attorney General Patrick Morrisey for his repetitive attempts to undermine affordable healthcare coverage for West Virginians."

Whereas, Approximately 800,000 West Virginians are currently living with a pre-existing condition such as asthma, diabetes, cancer, or high blood pressure; and

Whereas, More West Virginians under the age of 65 have a pre-existing condition than any other state in the union; and

Whereas, Prior to the implementation of the Affordable Care Act, insurance companies were permitted to decide which West Virginians should have access to affordable health insurance; and

Whereas, Prior to the implementation of the Affordable Care Act, West Virginians could be denied healthcare coverage based on having a pre-existing condition; and

Whereas, Since the Affordable Care Act was implemented, approximately 150,000 West Virginians have gained lifesaving healthcare coverage through the Affordable Care Act's Medicaid expansion provision; and

Whereas, West Virginia receives over \$1 billion annually in medical services due to the Affordable Care Act; and

Whereas, West Virginians receive over \$162 million in federal subsidies to keep their health insurance premiums low; and

Whereas, Access to affordable healthcare and the protections offered to West Virginians hangs in the balance as the courts continue to review the case of TEXAS V. AZAR; and

Whereas, West Virginia Attorney General Patrick Morrisey, in his official capacity on behalf of West Virginians, is attempting to strip their access to affordable healthcare and protections through his actions in opposition to the Affordable Care Act and participation in TEXAS V. AZAR; and

Whereas, Attorney General Patrick Morrisey has endorsed passage of Senate Bill 284 – the West Virginia Healthcare Continuity Act in lieu of the Affordable Care Act; and

Whereas, The West Virginia Healthcare Continuity Act fails to account for over \$1 billion in federal funding West Virginia receives annually; and

Whereas, The West Virginia Health Care Continuity Act fails to compensate West Virginians who receive over \$162 million in federal subsidies to keep their health insurance premiums low; and

Whereas, The repeal of the Affordable Care Act through Morrisey's lawsuit, West Virginia would lose approximately 17,000 healthcare-related jobs, resulting in a 2.3 percent reduction in West Virginia's annual GDP; and

Whereas, The West Virginia Healthcare Continuity Acts fails to compensate both the State of West Virginia and West Virginians for the loss of \$1 billion annually in medical services and premium hikes; and

Whereas, The House of Delegates stands with West Virginians and supports access to affordable healthcare, protections to West Virginians with pre-existing conditions, fiscal responsibility, and the preservation of good-paying jobs; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby disapproves of State Attorney General Patrick Morrisey for his repetitive attempts to undermine affordable healthcare coverage for West Virginians; and, be it

Further Resolved, That the House of Delegates hereby requests that State Attorney General Patrick Morrisey dismisses West Virginia as a Plaintiff in the case of TEXAS V. AZAR; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to State Attorney General Patrick Morrisey.

Delegates Hill and Pack offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 131 – “Requesting a study to research the obstacles preventing private school students from attending vocational school in West Virginia with their public school and home school peers.”

Whereas, Evidence from national studies shows clearly that the need to increase the number of Americans who hold post-secondary credentials has reached a critical point; and

Whereas, According to Complete College America, the United States has fallen from first among nations to tenth in the percentage of young adults with a college degree; and

Whereas, In West Virginia, the large numbers of high school students who are uninterested and/or unprepared for college can be attributed to: lack of alignment in courses between public education and public colleges and universities, lack of clear career pathways presented to students early enough to help them choose a career path to pursue from high school through secondary education, and lack of knowledge among students and parents about financial aid opportunities that can help them and their families defray the cost of attending college; and

Whereas, Approximately 63 percent of available jobs require post-secondary education; and

Whereas, Currently, a severe gap exists between the demands for technically skilled workers in West Virginia and the aspirations and programmatic focus of many of our students; and

Whereas, A great way to promote this focus on career goals among students in West Virginia is the collaboration that currently exists between public schools, home schools, public community and technical colleges, vocational schools, and public school career centers; and

Whereas, Students who attend private school should be presented with the same alignment of high school coursework to that of public colleges and universities, be presented with clear career pathways to help them choose a career path to pursue from high school through secondary education, and have the same knowledge of financial aid opportunities to vocational schools, technical colleges, and universities in the Mountain State as those who attend public schools and home schools; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance conduct a study to research the obstacles preventing private school students from attending vocational school in West Virginia with their public school and home school peers; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021,

on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct a study, prepare reports, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Hill and Pack offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 132 – “Requesting the Joint Committee on Government and Finance to conduct a study to consider the Icelandic Model for substance use prevention for adolescents throughout the State of West Virginia.”

Whereas, West Virginia currently has the highest age-adjusted rate of drug overdose deaths involving opioids; and

Whereas, West Virginia’s children and adolescents are the most vulnerable witnesses of the state’s drug crisis; and

Whereas, The Icelandic Model is a theoretically grounded, evidence-based approach to community adolescent substance use prevention that has grown out of collaboration between policy makers, behavioral scientists, field-based practitioners, and community residents; and

Whereas, The intervention focuses on reducing known risk factors for substance use, while strengthening a broad range of parental, school, and community protective factors; and

Whereas, Data suggests that the Icelandic adolescent substance use prevention approach successfully strengthened a broad range of parental, school, and community protective factors; and

Whereas, A growing body of research underscores the importance of the peer group and organization of adolescent leisure activities in the formation of adolescent society and lifestyle; and

Whereas, The Icelandic Model is currently being piloted in Wyoming and Fayette counties; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance conduct a study to better understand the potential that the Icelandic Model could have in addressing the critical need for substance use prevention for adolescents of West Virginia, and to conduct a comparative analysis of the effects of the pilot program in Wyoming and Fayette counties; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct a study, prepare reports, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 6, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 437**), and there were—yeas 65, nays 33, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Barrett, Bates, Bibby, N. Brown, Butler, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hicks, Hornbuckle, Kump, Lavender-Bowe,

Little, Longstreth, Lovejoy, C. Martin, P. Martin, Miley, Miller, Pushkin, Pyles, Rowe, Storch, Swartzmiller, Williams and Zukoff.

Absent and Not Voting: Kessinger and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 6) passed.

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

Com. Sub. for S. B. 96, Prohibiting municipalities from limiting persons' rights to possess certain weapons; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 438**), and there were—yeas 81, nays 17, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Bates, Byrd, Caputo, Doyle, Fleischauer, Hansen, Hornbuckle, Longstreth, Miley, Pushkin, Pyles, Rowe, Shott, Skaff, Walker and Williams.

Absent and Not Voting: Kessinger and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 96) passed.

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

Com. Sub. for S. B. 201, Relating generally to criminal offenses of stalking and harassment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 439**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cadle, Foster and McGeehan.

Absent and Not Voting: Kessinger and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 201) passed.

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

Com. Sub. for S. B. 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 440**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Fast, D. Jeffries, Kump and Porterfield.

Absent and Not Voting: Kessinger and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 232) passed.

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

S. B. 562, Expunging certain criminal convictions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 441**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Foster, Hicks, Jennings and Steele.

Absent and Not Voting: Azinger, Kessinger and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 562) passed.

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

Com. Sub. for S. B. 649, Permitting county emergency phone system directors negotiate contracts for mobile phones; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 442**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Cowles.

Absent and Not Voting: Azinger, Kessinger and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 649) passed.

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

S. B. 651, Relating to definition of “mortgage loan originator”; on third reading, coming up in regular order, was reported by the Clerk.

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

At 12:21 p.m., on motion of Delegate Summers, the House of Delegates recessed for ten minutes.

Reordering of the Calendar

Delegate Summers announced that pursuant to the action of the Committee on Rules, Com. Sub. for S. B. 175, Com. Sub. for S. B. 230, Com. Sub. for S. B. 261, Com. Sub. for S. B. 288, S. B. 289,

Com. Sub. for S. B. 303, Com. Sub. for S. B. 491, S. B. 510, Com. Sub. for S. B. 530, Com. Sub. for S. B. 575, S. B. 641, S. B. 647, Com. Sub. for S. B. 689, Com. Sub. for S. B. 692, Com. Sub. for S. B. 746, S. B. 747, S. B. 748, Com. Sub. for S. B. 749, Com. Sub. for S. B. 751, S. B. 767, Com. Sub. for S. B. 770, S. B. 838, S. B. 851 and Com. Sub. for H. B. 4021, on Second Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 195, Com. Sub. for S. B. 213, S. B. 322, Com. Sub. for S. B. 615, Com. Sub. for S. B. 660, Com. Sub. for S. B. 670, Com. Sub. for S. B. 690, Com. Sub. for S. B. 722 and Com. Sub. for S. B. 738, on First Reading, Special Calendar, had been transferred to the House Calendar.

Second Reading

Com. Sub. for S. B. 125, Prohibiting victim from being subjected to certain physical examinations for sexual offenses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-11. Sexual offenses; evidence.

(a) In any prosecution under this article in which the victim’s lack of consent is based solely on the incapacity to consent because such victim was below a critical age, evidence of specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct shall not be admissible. In any other prosecution under this article, evidence of specific instances of the victim’s prior sexual conduct with the defendant shall be admissible on the issue of consent: *Provided*, That such evidence heard first out of the presence of the jury is found by the judge to be relevant.

(b) In any prosecution under this article evidence of specific instances of the victim's sexual conduct with persons other than the defendant, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall not be admissible: *Provided*, That such evidence shall be admissible solely for the purpose of impeaching credibility, if the victim first makes his or her previous sexual conduct an issue in the trial by introducing evidence with respect thereto.

(c) In any prosecution under this article, neither age nor mental capacity of the victim shall preclude the victim from testifying.

(d) At any stage of the proceedings, in any prosecution under this article, the court may permit a child who is 11 years old or less to use anatomically correct dolls, mannequins, or drawings to assist such child in testifying.

(e)(1) A court may not order or otherwise require an alleged victim in a prosecution for a sexual offense to submit to or undergo a gynecological or physical examination of the breasts, buttocks, anus, or any part of the sex organs.

(2) The refusal of an alleged victim to undergo an examination described in subdivision (1) of this subsection may not serve as the basis to exclude evidence obtained from other relevant examinations of the victim, except where constitutionally required.

(3) For the purposes of this subsection, the term 'sexual offense' means any offense in which sexual intercourse, sexual contact, or sexual intrusion is an element of the offense, and includes any prosecution under this article, §61-8-12, or §61-8D-5 of this code."

The bill was then ordered to third reading.

Com. Sub. for S. B. 144, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“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.

(a) A person who by threats, menaces, acts, or otherwise forcibly or illegally hinders or obstructs or attempts to hinder or obstruct a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(b) A person who intentionally disarms or attempts to disarm a law-enforcement officer, correctional officer, probation officer, parole officer, courthouse security officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years.

(c) A person who, with intent to impede or obstruct a law-enforcement officer, the State Fire Marshal or a full-time deputy or assistant fire marshal in the conduct of an investigation of a misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$200, or confined in jail for five days, or both fined and confined. The provisions of this section do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half-sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person under investigation. Statements made by

the person under investigation may not be used as the basis for prosecution under this subsection. For purposes of this subsection, 'law-enforcement officer' does not include a watchman, a member of the West Virginia State Police or college security personnel who is not a certified law-enforcement officer. A criminal charge under this subsection relating to the investigation of a misdemeanor offense may not be used to seek or support a secured bond or pre-trial incarceration.

(d) A person who intentionally flees or attempts to flee by any means other than the use of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain the person, and who knows or reasonably believes that the officer is attempting to arrest or lawfully detain him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(e) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be confined in jail not more than one year.

(f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who operates the vehicle in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and shall be imprisoned in a state correctional facility not less than one nor more than five years.

(g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes damage to the real or personal property of a person during or resulting from his or her flight, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 and shall be confined in jail for not less than six months nor more than one year.

(h) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes bodily injury to a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than 10 years.

(i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes death to a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than five nor more than 15 years. A person imprisoned pursuant to this subsection is not eligible for parole prior to having served a minimum of three years of his or her sentence or the minimum period required by §62-12-13 of this code, whichever is greater.

(j) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who is under the influence of alcohol, controlled substances, or drugs, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than 10 years.

(k) For purposes of this section, the term ‘vehicle’ includes any motor vehicle, motorcycle, motorboat, all-terrain vehicle, or snowmobile as those terms are defined in §17A-1-1 of this code, whether or not it is being operated on a public highway at the time and whether or not it is licensed by the state.

(l) For purposes of this section, the terms ‘flee’, ‘fleeing’, and ‘flight’ do not include a person’s reasonable attempt to travel to a safe place, allowing the pursuing law-enforcement officer to maintain appropriate surveillance, for the purpose of complying with the officer’s direction to stop.

(m) The revisions to subsections (e), (f), (g), and (h) of this section enacted during the 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

(n) (1) No person, with the intent to purposefully deprive another person of emergency services, may interfere with or prevent another person from making an emergency communication, which a reasonable person would consider necessary under the circumstances, to law-enforcement, fire, or emergency medical services personnel.

(2) For the purpose of this subsection, the term ‘interfere with or prevent’ includes, but is not limited to, seizing, concealing, obstructing access to or disabling or disconnecting a telephone, telephone line, or equipment or other communication device.

(3) For the purpose of this subsection, the term ‘emergency communication’ means communication to transmit warnings or other information pertaining to a crime, fire, accident, power outage, disaster, or risk of injury or damage to a person or property.

(4) A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than one day nor more than one year or shall be fined not less than \$250 nor more than \$2,000, or both fined and confined.

(5) A person who is convicted of a second offense under this subsection is guilty of a misdemeanor and, upon conviction

thereof, shall be confined in jail for not less than three months nor more than one year or fined not less than \$500 nor more than \$3,000, or both fined and confined.

(6) A person who is convicted of a third or subsequent offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than six months nor more than one year or fined not less than \$500 nor more than \$4,000, or both fined and confined.

(7) In determining the number of prior convictions for purposes of imposing punishment under this subsection, the court shall disregard all such prior convictions occurring more than 10 years prior to the offense in question.

(o) A person is guilty of filing a false complaint against a law-enforcement officer when, knowing the information reported is false or baseless, he or she:

(1) Initiates a false complaint of improper action of a law enforcement officer relating to an incident or other circumstance; or

(2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with conduct of law-enforcement officers which did not occur, does not in fact exist; or

(3) Reports to a law enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur.

Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both fined and confined.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator; on

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

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-3. Definitions.

For the purposes of this article:

(a) ‘Consideration paid’ or ‘consideration’ means the amount received in money, credits, property, or other consideration for, or in exchange for, the right to occupy a hotel room as herein defined.

(b) ‘Consumer’ means a person who pays the consideration for the use or occupancy of a hotel room. The term ‘consumer’ does not mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or political subdivisions thereof.

(c) ‘Hotel’ means any facility, building, or buildings, publicly or privately owned (including a facility located in a state, county, or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term includes, but is not limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins, and tourist homes. The term ‘hotel’ includes state, county, and city parks offering accommodations as herein set forth. The term ‘hotel’ does not mean a hospital, sanitarium, extended care facility, nursing home, or university or college housing unit, or any facility providing fewer than three rooms in private homes, not exceeding a total of 10 days in a calendar year, nor any tent, trailer, or camper campsites: *Provided*, That where a university or college housing unit provides sleeping accommodations for the general nonstudent public for a consideration, the term ‘hotel’ does, if otherwise applicable, apply to those accommodations for the purposes of this tax.

(d) ‘Hotel operator’ means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor, or in any other capacity. Where the hotel operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent is a hotel operator for the purposes of this article and has the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing agent is, however, considered to be compliance by both.

(e) ‘Hotel room’ means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. The term ‘hotel room’ does not include:

(1) A banquet room, meeting room, or any other room not primarily used for, or in conjunction with, sleeping accommodations; or

(2) Sleeping accommodations rented on a month-to-month basis or other rental arrangement for 30 days or longer at the inception at a boarding house, condominium, cabin, tourist home, apartment, or home.

(3) Sleeping accommodations rented by a hotel operator to those persons directly employed by the hotel operator for the purposes of performing duties in support of the operation of the hotel or related operations.

(f) ‘Marketplace facilitator’ shall have the same meaning as stated in W. Va. Code §11-15A-1(b)(8).

~~(f)~~ (g) ‘Person’ means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator, or any other group or combination acting as a unit.

~~(g)~~ (h) ‘State park’ means any state-owned facility which is part of this state’s park and recreation system established pursuant to

this code. For purposes of this article, any recreational facility otherwise qualifying as a 'hotel' and situated within a state park is considered to be solely within the county in which the building or buildings comprising the facility are physically situated, notwithstanding the fact that the state park within which the facility is located may lie within the jurisdiction of more than one county.

~~(h)~~ (i) 'Tax', 'taxes', or 'this tax' means the hotel occupancy tax authorized by this article.

~~(i)~~ (j) 'Taxing authority' means a municipality or county levying or imposing the tax authorized by this article.

~~(j)~~ (k) 'Taxpayer' means any person liable for the tax authorized by this article.

§7-18-4. Consumer to pay tax; hotel or hotel operator not to represent that it will absorb tax; accounting by hotel and marketplace facilitators.

(a) The consumer shall pay to the hotel operator the amount of tax imposed by any municipality or county hereunder, which tax shall be added to and shall constitute a part of the consideration paid for the use and occupancy of the hotel room, and which tax shall be collectible as such by the hotel operator who shall account for, and remit to the taxing authority, all taxes paid by consumers. The hotel operator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account and records relating to consideration paid for occupancy or use of a hotel room. The hotel operator may commingle taxes collected hereunder with the proceeds of the rental of hotel accommodations unless the taxing authority shall, by ordinance, order, regulation or otherwise require in writing the hotel operator to segregate such taxes collected from such proceeds. The taxing authority's claim shall be enforceable against, and shall be superior to, all other claims against the moneys so commingled excepting only claims of the state for moneys held by the hotel pursuant to the provisions of article fifteen, chapter eleven of this code. All taxes collected pursuant to the provisions of this article shall be deemed to be held

in trust by the hotel until the same shall have been remitted to the taxing authority as hereinafter provided.

(b) Where a hotel or hotel operator contracts with a marketplace facilitator to offer the use or occupancy of a hotel room, such marketplace facilitator shall be responsible, on behalf of the hotel or hotel operator, for the collection and remittance of the tax imposed by any municipality or county hereunder. The marketplace facilitator shall separately state the tax authorized by this article on all bills, invoices, accounts, books of account, and records relating to consideration paid for the occupancy or use of a hotel room. All taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the marketplace facilitator, on behalf of the hotel or hotel operator, until the same has been remitted by the marketplace facilitator to the State Tax Division as hereinafter provided. Nothing in this paragraph shall be construed to interfere with the ability of a marketplace facilitator and a hotel or hotel operator to enter into an agreement regarding fulfillment of the requirements of this chapter.

~~(b)~~ (c) A hotel or hotel operator shall not represent to the public in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not to be considered an element in the price to be collected from the consumer.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 208, Protecting consumers from unfair pricing practices during state of emergency; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers’ Compensation Old Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section sixteen, line twenty-three, following the

subsection designation “(e)”, by striking out the word “The” and inserting in lieu thereof the words “During the fiscal years beginning July 1, 2019, and July 1, 2020, the”.

The bill was then ordered to third reading.

S. B. 569, Expiring funds from various accounts to DHHR, Medical Services Program Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 570, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 583, Creating program to further development of renewable energy resources; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page seven, section one-o, beginning on line one hundred fifty-three, by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read as follows:

“(5) The renewable electric generating facilities, energy storage resources, or both, constructed, purchased, contracted, owned, installed, and in service pursuant to an application approved by the commission shall be considered used and useful for rate recovery purposes. Any concurrent cost recovery mechanism approved by the Commission shall limit the amount of cost to be recovered from any individual customer of the electric utility to a maximum of \$1,000 per month: *Provided*, That this limitation shall not impact the electric utility’s ability to recover all costs incurred pursuant to this section from other customers. Customers who have executed renewable special contracts or are taking power under renewable tariffs pursuant to an approved renewable electric facilities program are not subject to any such limits imposed by the Commission.”

Delegate P. Martin moved to amend the bill on page eight, section one-o, line one hundred seventy, by inserting the following new subdivision to read as follows:

“(7) Notwithstanding any provision of this section to the contrary, only those prospective residential or commercial voluntary consumers of solar generated electricity, as provided for herein, shall be assessed the appropriate rate increases to provide for the construction and operation of said solar facility”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 443**), and there were—yeas 37, nays 60, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Barnhart, Bartlett, Bibby, N. Brown, Butler, Cadle, Campbell, Canestraro, Criss, Dean, Ellington, Fast, Foster, Hicks, Householder, J. Jeffries, Lavender-Bowe, Little, Lovejoy, C. Martin, P. Martin, Maynard, McGeehan, Miley, Paynter, Phillips, Porterfield, Robinson, Rodighiero, Rohrbach, Rowan, Swartzmiller, R. Thompson, Tomblin, Toney and Waxman.

Absent and Not Voting: Graves, Kessinger and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegate Paynter moved to amend the bill on page five, section one-o, line eighty-eight, by inserting the following new subdivision to read as follows:

“(8) All physical components of the renewable electric-generating facility, including the solar photovoltaic infrastructure, or other portions of the electrical generating array, shall be made or assembled in the United States of America.”

During debate, Delegate Cadle raised a point of order regarding the content of the questions of Delegate Steele to Delegate Paynter.

The Speaker replied that the amendment deals with the limited purposes of the bill and sustained the point of order.

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

The yeas and nays having been ordered, they were taken (**Roll No. 444**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Azinger, Barrett, Bartlett, Bates, Bibby, Boggs, N. Brown, S. Brown, Butler, Cadle, Campbell, Canestraro, Caputo, Dean, Diserio, Fast, Fluharty, Hicks, Hornbuckle, J. Jeffries, Lavender-Bowe, Longstreth, Lovejoy, C. Martin, P. Martin, Maynard, McGeehan, Miller, Paynter, Phillips, Porterfield, Robinson, Rodighiero, Rohrbach, Sponaugle, Swartzmiller, C. Thompson, R. Thompson, Tomblin and Toney.

Absent and Not Voting: Graves, Kessinger and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

On motion of Delegate J. Kelly, the bill was amended on page nine, section one-o, after line one hundred eighty-seven, by inserting a new subsection (n) to read as follows:

“(n) Notwithstanding the provisions of §24-2-11c of this code, any person or entity (1) who is not an electric utility; (2) who intends to purchase or construct and operate an electric generating facility as an exempt wholesale generator under federal law; (3) who will generate electricity solely through solar photovoltaic or other solar methods; and (4) who, if desired, intends to purchase or construct and operate energy storage for such electricity may file an application with the Public Service Commission under this section in such detail and with such publication requirements as the commission may prescribe; and the commission shall hold a hearing, unless waived, within 90 days of publication and issue a final order on a siting certificate or modification thereof within 150 days of the application filing date. No other provision of this section shall apply to these exempt wholesale generators.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 705, Allowing military veterans with certain experience qualify for examination as electrician or plumber; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 803, Supplemental appropriation of money out of General Revenue Fund to DHHR; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 804, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 805, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 806, Supplemental appropriation out of federal funds in Treasury to DOT; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 812, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, following line fifteen, by inserting the following:

“From the above appropriation for In-Home Services and Nutrition for Senior Citizens (fund 5405, appropriation 91700), \$1,500,000 shall be utilized for congregate and home delivered nutrition meal reimbursement rate increases and \$1,500,000 shall be utilized for the nutrition home delivered meal program wait list.”

The bill was then ordered to third reading.

First Reading

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

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices,

Com. Sub. for S. B. 490, Relating to criminal offenses against agricultural facilities,

Com. Sub. for S. B. 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities,

S. B. 600, Creating special revenue account designated Military Authority Fund,

Com. Sub. for S. B. 614, Changing method of allocating funding from Safe School Funds,

Com. Sub. for S. B. 662, Removing restrictions on fiduciary commissioners,

Com. Sub. for S. B. 668, Enacting Uniform Trust Decanting Act,

Com. Sub. for S. B. 802, Relating to public utilities generally,
And,

Com. Sub. for S. B. 810, Implementing federal Affordable Clean Energy rule.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Kessinger and Wilson.

At 2:12 p.m., the House of Delegates recessed until 6:00 p.m.

* * * * *

Evening Session

* * * * *

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

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

Committee Reports

On motions for leave, the following resolutions were introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which were read by their title, as follows:

By Delegates Hill and Pack:

H. C. R. 133 – “Requesting a study of involuntary commitment practices for persons suffering from severe psychiatric illnesses.”

Whereas, Those with the most severe mental illnesses frequently go without needed care, leading to dire consequences for them, their families, and society at large; and

Whereas, Efforts to make needed reforms are complicated by the fact that the United States does not possess one uniform mental health system, and responsibility falls to the fifty states and assorted local governments; and

Whereas, Each political subdivision has their own unique laws, regulations, policies, budgetary restrictions, and politics that contemporaneously influence the administration of our national mental health system; and

Whereas, The system in each state is vastly different from its neighbors and the treatment of an individual for acute psychiatric

crisis or chronic psychiatric disease is almost entirely dependent on the state they are in when they experience this crisis; and

Whereas, The involuntary commitment treatment and hospitalization of a person for a psychiatric illness is complicated and involves the judicial system, medical professionals, and recovery practices; and

Whereas, West Virginia, among a ranking of states, is substantially less well-suited to timely and sufficiently provide for the evaluation and treatment of is affected citizens; and

Whereas, Our neighboring states are significantly better situated to deal with the psychiatric needs its citizens, and West Virginia is among the bottom fifth of states in regard to availability of care and quality of services provided; and

Whereas, It is recommended that West Virginia adopt a psychiatric deterioration standard for involuntary hospitalization, that West Virginia provides additional procedural detail, that it require periodic reporting to the court, that it codifies the process for the renewal of an order, and that it requires a written treatment plan be submitted to the court; and

Whereas, West Virginia has civil commitment laws that establish criteria for determining when involuntary treatment is appropriate for individuals with severe mental illness who cannot seek care voluntarily, and it is our duty to research and strengthen our policies to provide the best care possible to those afflicted with mental illness; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance conduct a comprehensive, holistic study of the current state of the involuntary hospitalization practices in the state to determine deficiencies, shortcomings, improvements, and best practices that will align the state with those whose systems are ranked above ours in terms of quality of care, due process, and transparency; and, be it

Such a study should include emergency hold durations, quality of criteria for psychiatric deterioration, inpatient criteria for psychiatric deterioration, procedures to guide practitioners, duration of initial order, and other areas where the state is lacking substantial standards and procedures; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Hill and Pack:

H. C. R. 134 – “Requesting a study to determine the usage and whereabouts of federal money allocated to the state of West Virginia for the purpose of prevention and treatment efforts regarding the State opioid crisis.”

Whereas, West Virginia has seen a five-fold increase in the amount of federal funding to fight the opioid crisis; and

Whereas, West Virginia received \$28,027,511 from the U.S. Department of Health and Human Services in 2019 as part of the State Opioid Response (SOR) grants program through the Substance Abuse and Mental Health Services Administration (SAMHSA); and

Whereas, West Virginia received \$14,000,000 from the U.S. Department of Health and Human Services to use for medication-assisted treatment to assist drug abusers in stepping down from heroin and other strong opioids; and

Whereas, A grant from the Centers for Disease Control (CDC) totaling \$7,357,388 was awarded to the state and local agencies to more quickly and effectively track overdose data over the next three years; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance conduct a comprehensive study of the current federal allocations towards the state opioid epidemic, the outcome from programs that received said federal funds, and the proposed plan for these funds moving forward; and, be it

Further Resolved, that the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, that the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Hill and Pack:

H. C. R. 135 – “Requesting a study of prescription drug transparency laws, including reports on data submitted by health insurers, manufacturers, and pharmacy benefit managers.”

Whereas, Five states (California, Nevada, Maine, Oregon, and Vermont) have published reports identifying specific drugs that are high cost, for which costs are rising fasts, and and/or that are most frequently prescribed; and

Whereas, California, Vermont, and Oregon have reported impacts of retail prescription drug costs on insurance premiums, averaging 13 percent in California (before accounting for manufacturer rebates, which averaged 10.1 percent of insurers’ retail drug costs) in 2017, 15.67 percent of premiums in Vermont in 2018 (before accounting for rebates), and up to 18 percent of premiums in Oregon (after accounting for rebates) in 2018; and

Whereas, Requiring both manufacturers and PBMs to report allows states to track drug pricing along the supply chain; and

Whereas, Production costs accounted for 29 percent of manufacturers' estimated average revenue in 2018 for essential diabetes drugs after rebates. Administrative costs and profit each accounted for 25 percent. On average, manufacturers earned \$42 in profits for every \$100 spent on production and administrative cost for these drugs; and

Whereas, Financial assistance to consumers accounted for 14 percent of the manufacturers' estimated total revenues after rebates, although most manufacturers reported offering no financial assistance; and

Whereas, West Virginia shares concerns about the affordability of many of the same drugs; and

Whereas, Understanding pricing across the entire supply chain, from the manufacturer to the consumer, is critical. Reporting that uses consistent concepts and measures can foster mutual understanding of facts among policymakers and stakeholders in a complex system; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study to understand drug pricing across the entire supply chain, from the manufacturer to the consumer, for drugs that drive increases in health insurance premiums and consumer costs; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Hill and Pack:

H. C. R. 136 - “Requesting a study to present a plan for the combination of the Board of Medicine and the Board of Osteopathic Medicine.”

Whereas, The education pathways are similar, in that D.O.s and M.D.s learn how to diagnose, treat, and prevent diseases and injuries and, as a result, they receive much of the same training, including: four years of medical school after earning a bachelor’s degree, and a residency program lasting one to seven years after completing medical school; and

Whereas, Licensees fund both boards duplicitously; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study to present a plan for the combination of the Board of Medicine and the Board of Osteopathic Medicine; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Hill and Pack:

H. C. R. 137 – “Requesting a study of appropriate identification and medical and rehabilitative interventions for persons who sustain a traumatic brain injury.”

Whereas, Traumatic brain injury is a disruption in the normal functioning of the brain due to a bump, blow, jolt or penetrating head injury; and

Whereas, The leading causes of traumatic brain injury are motor vehicle crashes, falls, being struck by or against objects, and assault; and

Whereas, Symptoms of a traumatic brain injury can be mild, moderate, or severe, depending on the extent of damage to the brain; and

Whereas, Disabilities resulting from a traumatic brain injury depend upon the severity of the injury, the location of the injury, and the age and general health of the individual. Some common disabilities include problems with cognition, sensory processing, communication, and behavior or mental health; and

Whereas, Approximately 1.7 million people in the US suffer a traumatic brain injury annually and while most of these injuries are mild, resulting in a short-term disruption, such as a concussion, many are severe, resulting in prolonged unconsciousness or amnesia and often result in permanent disability or death; and

Whereas, In addition to the emotional burden faced by family and friends, it is estimated that traumatic brain injury in the United States is estimated to have direct and indirect costs of \$60 billion annually; and

Whereas, It is important to develop, within the limits of available resources, a comprehensive system designed to assist, educate and rehabilitate the person with a traumatic brain injury to attain and sustain the highest function and self-sufficiency possible using community-based treatments, services and resources to the greatest possible degree; and

Whereas, It is equally important to undertake, within the limits of available resources, appropriate identification and medical and rehabilitative interventions for persons who sustain a traumatic brain injury, including, but not limited to, establishing services to assess the needs of persons who sustain a traumatic brain injury and to facilitate effective and efficient medical care, neurorehabilitation planning and reintegration and to improve the knowledge and skills of the medical community, including, but not

limited to, emergency room physicians, psychiatrists, neurologists, neurosurgeons, neuropsychologists and other professionals who diagnose, evaluate and treat traumatic brain injuries; and

Whereas, The Traumatic Brain Injury Waiver Program, as maintained by the Bureau for Medical Services, be continued to prevent the unnecessary institutionalization of persons by providing services and supports that are person-centered and promotes choice, independence, participant-directed, respect, dignity, and community integration; and

Whereas, Traumatic brain injuries require intensive, consistent rehabilitation and this rehabilitation can best be provided in a residential traumatic brain injury rehabilitation facility; and

Whereas, Many West Virginians who suffer traumatic brain injuries would greatly benefit from a residential traumatic brain injury specific rehabilitation facility or day program where this intensive, consistent, brain injury rehabilitation can be provided; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study on the need for residential, brain injury specific rehabilitation facilities to provide intensive and consistent rehabilitation to meet the unique needs, challenges and issues facing persons who sustain a traumatic brain injury; and, be it

Further Resolved, That the report should be conducted by the West Virginia Bureau for Health Facilities and that it include studies of options for brain injury specific rehabilitation, the costs associated with these injuries, the potential need for anoxic brain injury specific rehabilitation, and the number of West Virginians with an anoxic brain injury; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations

together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And,

By Delegates Hill and Pack:

H. C. R. 138 – “Requesting a study of sexual violence prevention and intervention services.”

Whereas, One in six women and one in 21 men will be victims of attempted or completed forcible rapes in West Virginia; and

Whereas, The number one reason for incarceration in DOC facilities in 2018 was forceable sexual assault, and inmates were incarcerated at an annual cost of \$36,049,477; and

Whereas, Comprehensive sexual violence services are currently provided through nine regional rape crisis centers in West Virginia; and

Whereas, These rape crisis centers comprise the state sexual assault coalition - the West Virginia Foundation for Rape Information and Services (FRIS); and

Whereas, Rape crisis centers provide the only 24/7 crisis intervention services for sexual assault victims; and

Whereas, In addition to crisis services, crisis centers reported providing 1719 prevention programs to 16,801 students/individuals last year, and 316 professionals attended 14 FRIS-sponsored prevention training events; and

Whereas, The state provides \$125,000 annually for rape crisis services in West Virginia – a 75% decrease from what was authorized in 2012; and

Whereas, \$800,000 has been requested by rape crisis services for expanded needs; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study on sexual violence prevention and intervention services; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The speaker referred the resolutions (H. C. R. 133, H. C. R. 134, H. C. R. 135, H. C. R. 136, H. C. R. 137 and H. C. R. 138) to the Committee on Rules.

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

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

S. C. R. 46, Requesting DEP and DHHR propose public source-water supply study plan,

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

In accordance with the former direction of the Speaker, the resolution (S. C. R. 46) was referred to the Committee on Rules.

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

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

H. C. R. 87, Recognizing the last day of February every year as Rare Disease Day,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 87) was referred to the Committee on Rules.

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

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

Com. Sub. for S. B. 312, Relating to provisional licensure of social workers,

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

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

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

Com. Sub. for S. B. 269, Establishing advisory council on rare diseases,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Government Organization be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 269) to the Committee on Government Organization was abrogated.

On motion for leave, a bill was introduced (Originating in the Committee on Finance and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Cowles, Hartman, Skaff, Espinosa, Boggs, Rowan, Pethtel, Rowe, Hill, Barrett and Pack:

H. B. 4977 – “A Bill expiring funds to the balance of the Department of Arts, Culture and History, Division of Culture and History, Public Records and Preservation Revenue Account Fund, fund 3542, fiscal year 2020, organization 0432, in the amount of \$105,000, all from the Auditor’s Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2020, organization 1200, by supplementing and amending chapter 31, Acts of the Legislature, 2019, known as the Budget Bill.”

On motion for leave, a bill was introduced (Originating in the Committee on Finance and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Criss, Anderson, Rowe, Rowan, Boggs, Espinosa, Sponaugle, Hardy, Barrett, Cowles and Skaff:

H. B. 4978 – “A Bill expiring funds to the balance of the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund 8402, fiscal year 2020, organization 0804 in the amount of \$750,000, all from the Auditor’s Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2020, organization 1200, by supplementing and amending chapter 31, Acts of the Legislature, 2019, known as the Budget Bill.”

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 760, Allowing state college or university apply to HEPC for designation as administratively exempt school,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 42, Permitting faith-based electives in classroom drug prevention programs,

S. B. 750, Establishing extended learning opportunities,

And,

S. B. 842, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 678, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program,

Com. Sub. for S. B. 739, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities,

And,

Com. Sub. for S. B. 785, Establishing uniform electioneering prohibition area,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 130, Relating to procedure for driver's license suspension and revocation for DUI,

Com. Sub. for S. B. 308, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation,

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation,

And,

S. B. 848, Clarifying persons charged with DUI may not participate in Military Service Members Court,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 275, Creating Intermediate Court of Appeals,

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

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 2nd day of March, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 4149, Relating to insurance,

H. B. 4359, Modifying the filing fees for insurers,

And,

H. B. 4501, Relating to the ability to refuse offenders for commitment to a jail.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 3127, Relating to the Secondary School Activities Commission and participation by home schooled students.

A message from the Senate, by

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

H. B. 4365, Granting of college credit hours for learning English as a second language.

A message from the Senate, by

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

H. B. 4412, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard.

A message from the Senate, by

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

H. B. 4450, Relating to instruction permits issued by the Division of Motor Vehicles.

A message from the Senate, by

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

H. B. 4929, Relating to the administrative closing of stale or unprogressed estates.

A message from the Senate, by

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

H. B. 4969, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 554, Relating to termination, expiration, or cancellation of oil or natural gas leases.

A message from the Senate, by

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

S. B. 852 - “A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the State Department of Education, School Building Authority, fund 3514, fiscal year 2020, organization 0402, by supplementing and amending chapter 31, Acts of the Legislature, regular session, 2019, known as the Budget Bill, for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 853 - “A Bill supplementing and amending by decreasing an existing item of appropriation and adding a new item of appropriation for expenditure of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, Lottery Net Profits, to the State Department of Education, School Building Authority, fund 3963, fiscal year 2020, organization 0402, by supplementing and amending chapter 31, Acts of the Legislature, regular session, 2019, known as the Budget Bill, for the fiscal year ending June 30, 2020”; which was referred to the Committee on Finance.

Miscellaneous Business

Pursuant to House Rule 132, consent was requested and obtained to print the following remarks in the Appendix to the Journal:

- The Remarks of Delegate Miller on Saturday regarding the death of the Mayor of Madison, H. H. “Sonny” Howell, Jr.

At 6:45 p.m., the House of Delegates adjourned until 9:00 a.m., Tuesday, March 3, 2020.

Tuesday, March 3, 2020

FIFTY-SIXTH DAY

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Monday, March 2, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on March 2, 2020, he approved **H. B. 4007, Com. Sub. for S. B. 16, Com. Sub. for S. B. 35, S. B. 300, S. B. 310, S. B. 321 and Com. Sub. for S. B. 676.**

Special Calendar

Third Reading

Com. Sub. for S. B. 125, Prohibiting victim from being subjected to certain physical examinations for sexual offenses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 445**), and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting: Bates, Byrd, Campbell, Capito, Doyle, Fleischauer, Hamrick, Higginbotham, Hornbuckle, Mandt, Porterfield, Queen, Rohrbach, Sypolt and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) passed.

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

On this question, the yeas and nays were taken (**Roll No. 446**), and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting: Bates, Byrd, Campbell, Capito, Doyle, Fleischauer, Hamrick, Higginbotham, Hornbuckle, Mandt, Porterfield, Queen, Rohrbach, Sypolt and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) takes effect from its passage.

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

Com. Sub. for S. B. 144, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 447**), and there were—yeas 75, nays 23, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: S. Brown, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, McGeehan, Pethtel, Phillips, Pushkin, Pyles, Rowe, Skaff, Sponaule, Staggers, C. Thompson, Walker, Williams and Zukoff.

Absent and Not Voting: Rohrbach and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 144) passed.

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

Com. Sub. for S. B. 144 – “A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to precluding the charge of making a materially false statement in the investigation of a misdemeanor offense serving as the basis for a secured bond or pre-trial incarceration; establishing a criminal offense in certain circumstances for initiating a false complaint or report against a law enforcement officer, knowing the information is false; and providing misdemeanor criminal penalties for a false report.”

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

Com. Sub. for S. B. 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator; on third reading, coming up in regular order, was read a third time.

Delegate C. Martin requested to be excused from voting on Com. Sub. for S. B. 163 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 448**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan and Paynter.

Absent and Not Voting: Rohrbach and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 163) passed.

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

Com. Sub. for S. B. 163 - “A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to taxation of hotel rooms booked through a marketplace facilitator; defining marketplace facilitator; providing for collection and remittance of the tax imposed by any municipality or county by a marketplace facilitator; making the marketplace facilitators responsible for collection and remittance of the tax imposed by any municipality or county; requiring the marketplace facilitator to separately state the tax on all bills, invoices, accounts, books of account, and records relating to consideration paid for the occupancy or use of a hotel room; deeming all taxes collected be held in trust by the marketplace facilitator until remitted; and permitting marketplace facilitators and hotels or hotel operators to enter into agreements regarding fulfillment of the requirements of the chapter.”

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

Com. Sub. for S. B. 208, Protecting consumers from unfair pricing practices during state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 449**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, Jennings and McGeehan.

Absent and Not Voting: Rohrbach and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 208) passed.

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

S. B. 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 450**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Rohrbach and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 545) passed.

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

On this question, the yeas and nays were taken (**Roll No. 451**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Rohrbach and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 545) takes effect from its passage.

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

S. B. 569, Expiring funds from various accounts to DHHR, Medical Services Program Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 452**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs, Rohrbach and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 569) passed.

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

On this question, the yeas and nays were taken (**Roll No. 453**), and there were—yeas 55, nays 40, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Boggs, N. Brown, Graves, Rohrbach and Wilson.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the motion was rejected.

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

Com. Sub. for S. B. 570, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 454**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: N. Brown, Rohrbach and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 570) passed.

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

On this question, the yeas and nays were taken (**Roll No. 455**), and there were—yeas 55, nays 42, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Pethtel, Porterfield, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Boggs, Rohrbach and Wilson.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the motion was rejected.

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

Com. Sub. for S. B. 583, Creating program to further development of renewable energy resources; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 456**), and there were—yeas 76, nays 23, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Bibby, N. Brown, Butler, Cadle, Dean, Fast, Foster, Hicks, D. Jeffries, J. Jeffries, Kessinger, P. Martin, Maynard, McGeehan, Paynter, Phillips, Porterfield, Rodighiero, R. Thompson, Tomblin, Toney and Waxman.

Absent and Not Voting: Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 583) passed.

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

Com. Sub. for S. B. 583 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-10, relating to creating a program to further the development of renewable energy resources and renewable energy facilities for solar energy by modifying the powers and duties of the Public Service Commission; providing for legislative findings and declarations; providing for definitions; providing for an application process and program for multiyear comprehensive renewable energy facilities for electric utilities, as defined, to plan, design, construct, purchase, own, and operate renewable energy-generating facilities, energy-storage resources, or both, under specified conditions, requirements, and limitations; providing that solar energy output is to be offered for sale or sold to residential, commercial, or industrial customers under renewable special contracts or renewable tariffs; providing for commission review and approval of said programs; allowing cost recovery for said programs; providing for requirements for said programs; providing for application requirements and contents in lieu of applications for certificates of public convenience and necessity; providing for public notice at the direction of the commission for anticipated rates and rate increases in interested counties; providing for a

hearing on applications within 90 days of notice; defining circumstances when a hearing can be waived for lack of opposition; defining a time period of 150 days within which the commission shall issue a final order after the application date; requiring the commission to find the programs as in the public interest; requiring the commission, after notice and hearing, to approve applications and allow cost recovery for just and reasonable expenditures; establishing accounting methods, practices, rates of return, calculations, dates, and procedures relevant for cost recovery; requiring a utility to place in effect commission-approved rates that include cost recovery with certain defined items; defining ‘concurrent cost recovery’; requiring yearly application filings by the utility with the commission regarding cost recovery; defining when a project is to be considered used and useful; limiting cost recovery from any one customer to a maximum increase of \$1000 per month; providing for siting certificates for exempt wholesale solar generation facilities to be processed in 150 days by the Public Service Commission; providing that no provision shall displace current levels of coal-fired generation capacity; and providing for a sunset date under conditions.”

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

S. B. 651, Relating to definition of “mortgage loan originator”; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the rule was suspended to permit the offering and consideration of an amendment on third reading.

An amendment sponsored by Delegate Shott was adopted, amending the bill on page three, section two, lines fifty-three and fifty-four, after the word “this”, by striking out the word “section” and inserting the word “subsection” in lieu thereof.

And,

On page three, section two, line sixty-four, after the word “this”, by striking out the word “section” and inserting the word “subsection” in lieu thereof.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 457**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 651) passed.

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

S. B. 651 - “A Bill to amend and reenact §31-17A-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of ‘mortgage loan originator’; and clarifying the definition of ‘mortgage loan originator’ with respect to retailers of manufactured or modular homes and their employees.”

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

Com. Sub. for S. B. 705, Allowing military veterans with certain experience qualify for examination as electrician or plumber; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 458**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Hicks, Jennings, Miller and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 705) passed.

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

S. B. 803, Supplemental appropriation of money out of General Revenue Fund to DHHR; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 459**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bartlett, Cadle, Fast, D. Jeffries, McGeehan and Porterfield.

Absent and Not Voting: Boggs, Hicks and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 803) passed.

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

On this question, the yeas and nays were taken (**Roll No. 460**), and there were—yeas 90, nays 7, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bartlett, Cadle, Fast, Jennings, P. Martin, McGeehan and Porterfield.

Absent and Not Voting: Boggs, Hicks and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 803) takes effect from its passage.

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

S. B. 804, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 461**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Boggs, Hicks and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 804) passed.

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

On this question, the yeas and nays were taken (**Roll No. 462**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Boggs, Hicks and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 804) takes effect from its passage.

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

S. B. 805, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 463**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Toney.

Absent and Not Voting: Hicks and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 805) passed.

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

On this question, the yeas and nays were taken (**Roll No. 464**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Hicks and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 805) takes effect from its passage.

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

S. B. 806, Supplemental appropriation out of federal funds in Treasury to DOT; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 465**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 806) passed.

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

On this question, the yeas and nays were taken (**Roll No. 466**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 806) takes effect from its passage.

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

S. B. 812, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 467**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 812) passed.

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

On this question, the yeas and nays were taken (**Roll No. 468**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 812) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 28. PREVENTION OF DECEPTIVE LAWSUIT ADVERTISING AND SOLICITATION PRACTICES REGARDING THE USE OF MEDICATIONS.

§47-28-1. Short title.

This article may be known and cited as the Prevention of Deceptive Lawsuit Advertising and Solicitation Practices Regarding the Use of Medications Act.

§47-28-2. Definitions.

As used in this article:

(1) ‘Legal advertisement’ means a solicitation for legal services regarding the use of medications through television, radio, newspaper or other periodical, outdoor display, or other written, electronic, or recorded communications wherein the advertisement solicits clients or potential clients for legal services.

(2) ‘Person’ means an individual or entity, including, but not limited to: (i) Attorneys; (ii) law firms; or (iii) third parties who solicit potential clients on behalf of attorneys or law firms, which pays for or authorizes a legal advertisement that solicits potential clients for attorneys or law firms under this article.

(3) ‘Protected health information’ has the meaning given such term in 45 C.F.R. 106.103 (2013).

(4) ‘Solicit’ means an offer to provide legal services regarding the use of medications by written, recorded, or electronic communication or by in-person, telephone, or real-time electronic contact.

§47-28-3. Deceptive legal advertising practices.

(a) *Specifically prohibited legal advertising practices.* — A person engages in an unfair or deceptive act or practice if, in a legal advertisement, the person does any of the following:

(1) Fails to contain the statement: ‘This is a paid advertisement for legal services.’;

(2) Presents a legal advertisement as a ‘consumer medical alert’, ‘health alert’, ‘consumer alert’, ‘public service health announcement’, or substantially similar phrase suggesting to a reasonable recipient that the advertisement is offering professional, medical, or government agency advice about pharmaceuticals or medical devices rather than legal services;

(3) Displays the logo of a federal or state government agency in a manner that suggests affiliation with the sponsorship of that agency;

(4) Uses the word ‘recall’ when referring to a product that has not been recalled by a government agency or through an agreement between a manufacturer and government agency;

(5) Fails to identify the sponsor of the legal advertisement; or

(6) Fails to indicate the identity of the attorney or law firm that will represent clients, or how potential clients or cases will be referred to attorneys or law firms that will represent clients if the sponsor of the legal advertisement may not represent persons responding to the advertisement.

(b) Disclosures and warnings for protection of patients. —

(1) A legal advertisement soliciting clients for legal services in connection with a prescription drug or medical device approved by the U.S. Food and Drug Administration shall include the following warning: ‘Do not stop taking a prescribed medication without first consulting with your doctor. Discontinuing a prescribed medication without your doctor’s advice can result in injury or death.’.

(2) A legal advertisement soliciting clients for legal services in connection with a prescription drug or medical device approved by the U.S. Food and Drug Administration shall disclose that the subject of the legal advertisement remains approved by the U.S. Food and Drug Administration, unless the product has been recalled or withdrawn.

(c) Appearance of required statements, disclosures, and warnings. — Any words or statements required by this section to appear in an advertisement must be presented clearly and conspicuously.

(1) Written disclosures shall be clearly legible and, if televised or displayed electronically, shall be displayed for a sufficient time to enable the viewer to easily see and fully read the disclosure or disclaimer.

(2) Spoken disclosures shall be plainly audible and clearly intelligible.

(d) A person who willfully and knowingly violates this section engages in an unfair and deceptive act or practice in violation of §46A-6-1 et seq. of this code.

§47-28-4. Wrongful use or disclosure of protected health information for solicitation of legal services regarding the use of medications.

(a) Use or disclosure of protected health information for legal solicitation. — A person shall not use, cause to be used, obtain, sell, transfer, or disclose to another person without written authorization protected health information for the purpose of soliciting an individual for legal services regarding the use of medications.

(b) Enforcement. —

(1) A violation of this section is a violation of West Virginia's health privacy laws or §46A-6-101 et seq. of this code.

(2) In addition to any other remedy provided by law, a person who willfully and knowingly violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or confined in jail not more than one year, or both fined and confined.

(c) Construction. — This section does not apply to the use or disclosure of protected health information to an individual's legal representative, in the course of any judicial or administrative proceeding, or as otherwise permitted or required by law.

(d) Nothing in this section creates or implies liability on behalf of a broadcaster who holds a license for over-the-air terrestrial broadcasting from the federal communications commission, or against a cable operator as defined in 47 U.S.C. §522(5).

§47-28-5. Authority of judiciary or State Bar to regulate practice of law.

This article does not limit or otherwise affect the authority of the judiciary or the Lawyer Disciplinary Board to regulate the

practice of law, enforce the West Virginia Rules of Professional Conduct, or discipline persons admitted to the bar.”

Delegates Byrd and Fluharty moved to amend the Judiciary Committee amendment on page one, section two, lines six through nine, by striking out the definition of ‘Person’ and inserting in lieu thereof, the following:

(2) ‘Person’ means an individual or entity, including, but not limited to attorneys, law firms, medical providers, pharmaceutical companies or third parties who solicit potential clients on behalf of attorneys, law firms or healthcare providers or pharmaceutical companies that advertise a health care product, which pays for or authorizes an advertisement that solicits potential clients, patients or customers under this article.”

On page one, section two, line twelve, following the words “provide legal”, by inserting the words “or health care”.

And,

On pages three and four, by striking out section four in its entirety, and inserting in lieu thereof, the following:

“§47-28-4. Wrongful use or disclosure of protected health information for solicitation of legal or healthcare services regarding the use of medications.

(a) (1) *Use or disclosure of protected health information for a solicitation.* — A person shall not use, cause to be used, obtain, sell, transfer, or disclose to another person without written authorization protected health information for the purpose of soliciting an individual for legal or health care service regarding the use of medications.

(2) *Disclosure of health risks for use of any medical products in a solicitation.* – No person may advertise a healthcare product that is subject to a federal Food and Drug Administration recall or safety alert, unless the advertisement discloses that the product is or subject to that recall or safety alert.

(b) Enforcement. —

(1) A violation of this section is a violation of West Virginia's health privacy laws or §46A-6-101 et seq. of this code.

(2) In addition to any other remedy provided by law, a person who willfully and knowingly violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or confined in jail not more than one year, or both fined and confined.

(c) Construction. — This section does not apply to the use or disclosure of protected health information to an individual's legal representative, in the course of any judicial or administrative proceeding, or as otherwise permitted or required by law.

(d) Nothing in this section creates or implies liability on behalf of a broadcaster who holds a license for over-the-air terrestrial broadcasting from the federal communications commission, or against a cable operator as defined in 47 U.S.C. §522(5)."

Delegate Shott arose and inquired of the Chair regarding the germaneness of the amendment to the amendment offered by Delegates Byrd and Fluharty.

The Speaker ruled that since the committee amendment expands the scope of the bill, the amendment to the amendment would be germane to the committee amendment.

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

The yeas and nays having been ordered, they were taken (**Roll No. 469**), and there were—yeas 48, nays 51, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Kump, Lavender-Bowe, Longstreth, Lovejoy, C. Martin, P. Martin, Miley, Miller, Paynter, Pethtel, Pushkin,

Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Steele, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

The Judiciary Committee amendment was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 150, Budget Bill; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 490, Relating to criminal offenses against agricultural facilities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 600, Creating special revenue account designated Military Authority Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 614, Changing method of allocating funding from Safe School Funds; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page

one, section forty-eight, line twelve, following the word “windows”, by striking out the comma and the word “etc”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 662, Removing restrictions on fiduciary commissioners; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 668, Enacting Uniform Trust Decanting Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk, and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 8B. WEST VIRGINIA UNIFORM TRUST
DECANTING ACT.**

§44D-8B-1. Short title.

This article may be cited as the West Virginia Uniform Trust Decanting Act.

§44D-8B-2. Definitions.

In addition to the definitions contained in §44D-1-103 of this code which apply to this article:

(1) ‘Appointive property’ means the property or property interest subject to a power of appointment.

(2) ‘Authorized fiduciary’ means:

(A) A trustee or other fiduciary, other than a grantor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

(B) A special fiduciary appointed under §44D-8B-9 of this code; or

(C) A special-needs fiduciary under §44D-8B-13 of this code.

(3) ‘Charitable interest’ means an interest in a trust which:

(A) Is held by an identified charitable organization and makes the organization a qualified beneficiary;

(B) Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(C) Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

(4) ‘Charitable organization’ means:

(A) A person, other than an individual, organized and operated exclusively for charitable purposes; or

(B) A government or governmental subdivision, agency, or instrumentality, to the extent it holds funds exclusively for a charitable purpose.

(5) ‘Charitable purpose’ means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community.

(6) ‘Decanting power’ or ‘the decanting power’ means the power of an authorized fiduciary under this article to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.

(7) ‘Expanded distributive discretion’ means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

(8) ‘First trust’ means a trust over which an authorized fiduciary may exercise the decanting power.

(9) ‘First-trust instrument’ means the trust instrument for a first trust.

(10) ‘General power of appointment’ means a power of appointment exercisable in favor of a powerholder, the powerholder’s estate, a creditor of the powerholder, or a creditor of the powerholder’s estate.

(11) ‘Power of appointment’ means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(12) ‘Powerholder’ means a person in which a donor creates a power of appointment.

(13) ‘Presently exercisable power of appointment’ means a power of appointment exercisable by the powerholder at the relevant time. The term:

(A) Includes a power of appointment exercisable only after:

(i) The occurrence of the specified event;

(ii) The satisfaction of the ascertainable standard; or

(iii) The passage of the specified time; and

(B) Does not include a power exercisable only at the powerholder’s death.

(14) ‘Reasonably definite standard’ means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. §674(b)(5)(A) and any applicable regulations.

(15) ‘Record’ means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(16) ‘Second trust’ means:

(A) A first trust after modification under this article; or

(B) A trust to which a distribution of property from a first trust is or may be made under this article.

(17) ‘Second-trust instrument’ means the trust instrument for a second trust.

(18) ‘Sign’ means with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

§44D-8B-3. Scope.

(a) Except as otherwise provided in subsections (b) and (c) of this section, this article applies to an express trust that is irrevocable or revocable by the grantor only with the consent of the trustee or a person holding an adverse interest.

(b) This article does not apply to a trust held solely for charitable purposes.

(c) Subject to §44D-8B-15 of this code, a trust instrument may restrict or prohibit exercise of the decanting power.

(d) This article does not limit the power of a trustee, powerholder, or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, law of this state other than this article, common law, a court order, or a nonjudicial settlement agreement.

(e) This article does not affect the ability of a grantor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

§44D-8B-4. Fiduciary duty.

(a) In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

(b) This article does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of this article.

(c) Except as otherwise provided in a first-trust instrument, for purposes of this article and §44D-8-1 and §44D-8-2(a) of this code, the terms of the first trust are considered to include the decanting power.

§44D-8B-5. Application; governing law.

This article applies to a trust created before, on, or after the effective date of this article which:

(1) Has its principal place of administration in this state, including a trust whose principal place of administration has been changed to this state; or

(2) Provides by its trust instrument that it is governed by the law of this state or is governed by the law of this state for the purpose of:

(A) Administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of this state;

(B) Construction of terms of the trust; or

(C) Determining the meaning or effect of terms of the trust.

§44D-8B-6. Reasonable reliance.

A trustee or other person that reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust, under this article, law of this state other than this article, or the law of another jurisdiction is not liable

to any person for any action or failure to act as a result of the reliance.

§44D-8B-7. Notice; exercise of decanting power.

(a) In this section, a notice period begins on the day notice is given under subsection (c) of this section and ends 59 days after the day notice is given.

(b) Except as otherwise provided in this article, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

(c) Except as otherwise provided in subsection (f) of this section, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days before the exercise to:

(1) Each grantor of the first trust, if living or then in existence;

(2) Each qualified beneficiary of the first trust;

(3) Each holder of a presently exercisable power of appointment over any part, or all of, the first trust;

(4) Each person that currently has the right to remove or replace the authorized fiduciary;

(5) Each other fiduciary of the first trust;

(6) Each fiduciary of the second trust; and

(7) The West Virginia Attorney General, if §44D-8B-14(b) of this code applies.

(d) An authorized fiduciary is not required to give notice under subsection (c) of this section to a person that is not known to the fiduciary.

(e) A notice under subsection (c) of this section must:

(1) Specify the manner in which the authorized fiduciary intends to exercise the decanting power;

(2) Specify the proposed effective date for exercise of the power;

(3) Include a copy of the first-trust instrument; and

(4) Include a copy of all second-trust instruments.

(f) The decanting power may be exercised before expiration of the notice period under subsection (a) of this section if all persons entitled to receive notice waive the period in a signed record.

(g) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under §44D-8B-9 of this code asserting that:

(1) An attempted exercise of the decanting power is ineffective because it did not comply with this article or was an abuse of discretion or breach of fiduciary duty; or

(2) Section 44D-8B-22 of this code applies to the exercise of the decanting power.

(h) An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection (c) of this section if the authorized fiduciary acted with reasonable care to comply with that subsection.

§44D-8B-8. Representation.

(a) Notice to a person with authority to represent and bind another person under a first-trust instrument or the provisions of this chapter has the same effect as notice given directly to the person represented.

(b) Consent of or waiver by a person with authority to represent and bind another person under a first-trust instrument or the provisions of this chapter is binding on the person represented unless the person represented objects to the representation before the consent or waiver otherwise would become effective.

(c) A person with authority to represent and bind another person under a first-trust instrument or the provisions of this chapter may file an application under §44D-8B-9 of this code on behalf of the person represented.

(d) A grantor may not represent or bind a beneficiary under this article.

§44D-8B-9. Court involvement.

(a) On application of an authorized fiduciary, a person entitled to notice under §44D-8B-7(c) of this code, a beneficiary, or with respect to a charitable interest any other person that has standing to enforce the charitable interest, the court may:

(1) Provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under this article and consistent with the fiduciary duties of the authorized fiduciary;

(2) Appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under this article and to exercise the decanting power;

(3) Approve an exercise of the decanting power;

(4) Determine that a proposed or attempted exercise of the decanting power is ineffective because:

(A) After applying §44D-8B-22 of this code, the proposed or attempted exercise does not, or did not, comply with this article; or

(B) The proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;

(5) Determine the extent to which §44D-8B-22 of this code applies to a prior exercise of the decanting power;

(6) Provide instructions to the trustee regarding the application of §44D-8B-22 of this code to a prior exercise of the decanting power; or

(7) Order other relief to carry out the purposes of this article.

(b) On application of an authorized fiduciary, the court may approve:

(1) An increase in the fiduciary's compensation under §44D-8B-16 of this code; or

(2) A modification under §44D-8B-18 of this code of a provision granting a person the right to remove or replace the fiduciary.

§44D-8B-10. Formalities.

An exercise of the decanting power must be made in a record signed by an authorized fiduciary. The signed record must, directly or by reference to the notice required by §44D-8B-7 of this code, identify the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust and the property, if any, that remains in the first trust.

§44D-8B-11. Decanting power under expanded distributive discretion.

(a) In this section:

(1) 'Noncontingent right' means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. The term does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary's estate.

(2) 'Presumptive remainder beneficiary' means a qualified beneficiary other than a current beneficiary.

(3) 'Successor beneficiary' means a beneficiary that is not a qualified beneficiary on the date the beneficiary's qualification is determined. The term does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment.

(4) 'Vested interest' means:

(A) A right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(B) A current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(C) A current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(D) A presently exercisable general power of appointment; or

(E) A right to receive an ascertainable part of the trust property on the trust's termination which is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

(b) Subject to subsection (c) of this section and §44D-8B-14 of this code, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Subject to §44D-8B-13 of this code, in an exercise of the decanting power under this section, a second trust may not:

(1) Include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in subsection (d) of this section;

(2) Include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust, except as otherwise provided in subsection (d) of this section; or

(3) Reduce or eliminate a vested interest.

(d) Subject to subdivision (3), subsection (c) of this section and §44D-8B-14 of this code, in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

(1) Retain a power of appointment granted in the first trust;

(2) Omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(3) Create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

(4) Create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

(e) A power of appointment described in subdivisions (1) through (4), inclusive, subsection (d) of this section may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

(f) If an authorized fiduciary has expanded distributive discretion over part, but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has expanded distributive discretion.

§44D-8B-12. Decanting power under limited distributive discretion.

(a) In this section, ‘limited distributive discretion’ means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

(b) An authorized fiduciary that has limited distributive discretion over the principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Under this section and subject to §44D-8B-14 of this code, a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, must grant each beneficiary of the first trust beneficial interests which are substantially similar to the beneficial interests of the beneficiary in the first trust.

(d) A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

(1) The distribution is applied for the benefit of the beneficiary;

(2) The beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under this chapter; or

(3) The distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

(e) If an authorized fiduciary has limited distributive discretion over part, but not all of, the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

§44D-8B-13. Trust for beneficiary with disability.

(a) In this section:

(1) ‘Beneficiary with a disability’ means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the

beneficiary currently receives those benefits or is an individual who has been adjudicated a protected person.

(2) ‘Governmental benefits’ means financial aid or services from a state, federal, or other public agency.

(3) ‘Special-needs fiduciary’ means, with respect to a trust that has a beneficiary with a disability:

(A) A trustee or other fiduciary, other than a grantor, that has discretion to distribute part or all of the principal of a first trust to one, or more current beneficiaries;

(B) If no trustee or fiduciary has discretion under paragraph (A) of this subdivision, a trustee or other fiduciary, other than a grantor, that has discretion to distribute part, or all of, the income of the first trust to one or more current beneficiaries; or

(C) If no trustee or fiduciary has discretion under paragraphs (A) and (B) of this subdivision, a trustee or other fiduciary, other than a grantor, that is required to distribute part, or all of, the income or principal of the first trust to one or more current beneficiaries.

(4) ‘Special-needs trust’ means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

(b) A special-needs fiduciary may exercise the decanting power under §44D-8B-11 of this code over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

(1) A second trust is a special-needs trust that benefits the beneficiary with a disability; and

(2) The special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

(c) In an exercise of the decanting power under this section, the following rules apply:

(1) Notwithstanding §44D-8B-11(c)(2) of this code, the interest in the second trust of a beneficiary with a disability may:

(A) Be a pooled trust as defined by Medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. §1396p(d)(4)(C); or

(B) Contain payback provisions complying with reimbursement requirements of Medicaid law under 42 U.S.C. §1396p(d)(4)(A).

(2) Section 44D-8B-11(c)(3) of this code does not apply to the interests of the beneficiary with a disability.

(3) Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, must grant each other beneficiary of the first trust beneficial interests in the second trusts which are substantially similar to the beneficiary's beneficial interests in the first trust.

§44D-8B-14. Protection of charitable interest.

(a) In this section:

(1) 'Determinable charitable interest' means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after the passage of a specified time and which is unconditional or will be held solely for charitable purposes.

(2) 'Unconditional' means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States Internal Revenue Code of 1986 on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

(b) If a first trust contains a determinable charitable interest which is not held by an identified charitable organization, the Attorney General has the rights of a qualified beneficiary and may represent and bind the charitable interest.

(c) If a first trust contains a charitable interest, the second trust or trusts may not:

(1) Diminish the charitable interest;

(2) Diminish the interest of an identified charitable organization that holds the charitable interest;

(3) Alter any charitable purpose stated in the first-trust instrument; or

(4) Alter any condition or restriction related to the charitable interest.

(d) If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection (c) of this section.

(e) If a first trust contains a determinable charitable interest which is not held by an identified charitable organization, the second trust or trusts that include a charitable interest pursuant to subsection (c) of this section must be administered under the law of this state unless:

(1) The Attorney General, after receiving notice under section 7 of this article, fails to object in a signed record delivered to the authorized fiduciary within the notice period;

(2) The Attorney General consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

(3) The court approves the exercise of the decanting power.

§44D-8B-15. Trust limitation on decanting.

(a) An authorized fiduciary may not exercise the decanting power to the extent the first-trust instrument expressly prohibits exercise of:

(1) The decanting power; or

(2) A power granted by state law to the fiduciary to distribute part, or all of, the principal of the trust to another trust or to modify the trust.

(b) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

(1) The decanting power; or

(2) A power granted by state law to a fiduciary to distribute part, or all of, the principal of the trust to another trust or to modify the trust.

(c) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

(d) Subject to subsections (a) and (b) of this section, an authorized fiduciary may exercise the decanting power under this article even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part, or all of, the principal of the first trust to another trust.

(e) If a first-trust instrument contains an express prohibition described in subsection (a) of this section or an express restriction described in subsection (b) of this section, the provision must be included in the second-trust instrument.

§44D-8B-16. Change in compensation.

(a) If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power

to increase the fiduciary's compensation above the specified compensation unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) The increase is approved by the court.

(b) If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by this chapter unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) The increase is approved by the court.

(c) A change in an authorized fiduciary's compensation which is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of subsections (a) and (b) of this section.

§44D-8B-17. Relief from liability and indemnification.

(a) Except as otherwise provided in this section, a second-trust instrument may not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first-trust instrument.

(b) A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

(c) A second-trust instrument may not reduce fiduciary liability in the aggregate.

(d) Subject to subsection (c) of this section, a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve

a fiduciary from liability for an act or failure to act of another fiduciary as permitted by law of this state other than this article.

§44D-8B-18. Removal or replacement of authorized fiduciary.

An authorized fiduciary may not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless:

(1) The person holding the power consents to the modification in a signed record and the modification applies only to the person;

(2) The person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

(3) The court approves the modification and the modification grants a substantially similar power to another person.

§44D-8B-19. Tax-related limitations.

(a) In this section:

(1) ‘Grantor trust’ means a trust as to which a grantor of a first trust is considered the owner under 26 U.S.C. §§671-677 or 26 U.S.C. §679.

(2) ‘Internal Revenue Code’ means the United States Internal Revenue Code of 1986.

(3) ‘Nongrantor trust’ means a trust that is not a grantor trust.

(4) ‘Qualified benefits property’ means property subject to the minimum distribution requirements of 26 U.S.C. §401(a)(9), and any applicable regulations, or to any similar requirements that refer to 26 U.S.C. §401(a)(9) or the regulations.

(b) An exercise of the decanting power is subject to the following limitations:

(1) If a first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a marital deduction for purposes of the gift or estate tax under the Internal Revenue Code or a state gift, estate, or inheritance tax, the second-trust instrument must not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(2) If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a charitable deduction for purposes of the income, gift, or estate tax under the Internal Revenue Code or a state income, gift, estate, or inheritance tax, the second-trust instrument must not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(3) If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for the exclusion from the gift tax described in 26 U.S.C. §2503(b), the second-trust instrument must not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. §2503(b). If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for the exclusion from the gift tax described in 26 U.S.C. §2503(b) by application of 26 U.S.C. §2503(c), the second-trust instrument must not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. §2503(c).

(4) If the property of the first trust includes shares of stock in an S corporation, as defined in 26 U.S.C. §1361 and the first trust is, or but for provisions of this article other than this section would be, a permitted shareholder under any provision of 26 U.S.C. §1361, an authorized fiduciary may exercise the power with respect to part or all of the S corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. §1361(c)(2). If the property of the first trust includes shares of stock in an S corporation and the first trust is, or but for provisions of this article other than this section would be, a qualified subchapter-S trust within the meaning of 26 U.S.C. §1361(d), the second-trust instrument must not include or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

(5) If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under 26 U.S.C. §2642(c) the second-trust instrument must not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. §2642(c).

(6) If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument may not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. §401(a)(9) and any applicable regulations, or any similar requirements that refer to 26 U.S.C. §401(a)(9) or the regulations. If an attempted exercise of the decanting power violates the preceding sentence, the trustee is determined to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power and §2201 applies to the separate share.

(7) If the first trust qualifies as a grantor trust because of the application of 26 U.S.C. §672(f)(2)(A), the second trust may not

include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. §672(f)(2)(A).

(8) In this subdivision, ‘tax benefit’ means a federal or state tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for a benefit arising from being a grantor trust. Subject to subdivision (9) of this subsection, a second-trust instrument may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if:

(A) The first-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and

(B) The transfer of property held by the first trust or the first trust qualified, or but for provisions of this article other than this section, would have qualified for the tax benefit.

(9) Subject to subdivision (4) of this subsection:

(A) Except as otherwise provided in subdivision (7) of this subsection, the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and

(B) Except as otherwise provided in subdivision (10) of this subsection, the second trust may be a grantor trust, even if the first trust is a nongrantor trust.

(10) An authorized fiduciary may not exercise the decanting power if a grantor objects in a signed record delivered to the fiduciary within the notice period and:

(A) The first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the grantor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant an equivalent power to the grantor or other person; or

(B) The first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the grantor, unless:

(i) The grantor has the power at all times to cause the second trust to cease to be a grantor trust; or

(ii) The first-trust instrument contains a provision granting the grantor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

§44D-8B-20. Duration of second trust.

(a) Subject to subsection (b) of this section, a second trust may have a duration that is the same as or different from the duration of the first trust.

(b) To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation which apply to property of the first trust.

§44D-8B-21. Need to distribute not required.

An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have made or could have been compelled to make a discretionary distribution of principal at the time of the exercise.

§44D-8B-22. Saving provision.

(a) If exercise of the decanting power would be effective under this article except that the second-trust instrument in part does not comply with this article, the exercise of the power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

(1) A provision in the second-trust instrument which is not permitted under this article is void to the extent necessary to comply with this article; and

(2) A provision required by this article to be in the second-trust instrument which is not contained in the instrument is considered to be included in the instrument to the extent necessary to comply with this article.

(b) If a trustee or other fiduciary of a second trust determines that subsection (a) of this section applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

§44D-8B-23. Trust for care of animal.

(a) In this section:

(1) 'Animal trust' means a trust or an interest in a trust created to provide for the care of one or more animals.

(2) 'Protector' means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no person is appointed in the trust, a person appointed by the court for that purpose.

(b) The decanting power may be exercised over an animal trust that has a protector to the extent the trust could be decanted under this article if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the power.

(c) A protector for an animal has the rights under this article of a qualified beneficiary.

(d) Notwithstanding any other provision of this article, if a first trust is an animal trust, in an exercise of the decanting power, the second trust must provide that trust property may be applied only

to its intended purpose for the period the first trust benefitted the animal.

§44D-8B-24. Terms of second trust.

Any reference in this chapter to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

§44D-8B-25. Grantor.

(a) For purposes of law of this state other than this article and subject to subsection (b) of this section, a grantor of a first trust is considered to be the grantor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power.

(b) In determining grantor intent with respect to a second trust, the intent of a grantor of the first trust, a grantor of the second trust, and the authorized fiduciary may be considered.

§44D-8B-26. Later-discovered property.

(a) Except as otherwise provided in subsection (c) of this section, if exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

(b) Except as otherwise provided in subsection (c) of this section, if exercise of the decanting power was intended to distribute less than all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

(c) An authorized fiduciary may provide in an exercise of the decanting power or by the terms of a second trust for disposition of

later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

§44D-8B-27. Obligations.

A debt, liability, or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.

§44D-8B-28. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§44D-8B-29. Relation to Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in §103(b) of that act, 15 U.S.C. §7003(b).

§44D-8B-30. Severability.

If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

§44D-8B-31. Effective date.

This article takes effect on July 1, 2020.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 802, Relating to public utilities generally; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted amending the bill on page two, section twenty, line twenty-four, after the word “certification”, by inserting the following proviso: “: Provided, That the natural gas provider bills the customer and the customer pays for at least 100,000 million cubic feet during each full calendar year after the utility has been notified, except in the event one or both of the contracting parties experiences a force majeure event or a condition beyond their reasonable control.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 810, Implementing federal Affordable Clean Energy rule; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

S. B. 42, Permitting faith-based electives in classroom drug prevention programs,

Com. Sub. for S. B. 130, Relating to procedure for driver’s license suspension and revocation for DUI,

Com. Sub. for S. B. 269, Establishing advisory council on rare diseases,

Com. Sub. for S. B. 275, Creating Intermediate Court of Appeals,

Com. Sub. for S. B. 308, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation,

Com. Sub. for S. B. 312, Relating to provisional licensure of social workers,

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation,

S. B. 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System,

Com. Sub. for S. B. 678, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program,

S. B. 691, Limiting programs adopted by State Board of Education,

Com. Sub. for S. B. 707, Relating to nursing career pathways,

S. B. 723, Requiring Department of Education develop plan based on analyzed data on school discipline,

Com. Sub. for S. B. 729, Relating to awards and disability under Deputy Sheriff Retirement Act,

Com. Sub. for S. B. 739, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities,

S. B. 750, Establishing extended learning opportunities,

Com. Sub. for S. B. 760, Allowing state college or university apply to HEPC for designation as administratively exempt school,

Com. Sub. for S. B. 785, Establishing uniform electioneering prohibition area,

Com. Sub. for S. B. 793, Relating to B&O taxes imposed on certain coal-fired electric generating units,

S. B. 830, Eliminating special merit-based employment system for health care professionals,

S. B. 839, Creating State Advisory Council on Postsecondary Attainment Goals,

S. B. 842, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years,

S. B. 846, Requiring hospital publish notification prior to facility closure regarding patient medical records,

S. B. 848, Clarifying persons charged with DUI may not participate in Military Service Members Court,

Com. Sub. for H. B. 4975, Making a supplementary appropriation to the School Building Authority, Debt Service Fund,

Com. Sub. for H. B. 4976, Making a supplementary appropriation to the School Building Authority,

H. B. 4977, Expiring funds to the balance of the Department of Arts, Culture and History, Division of Culture and History, Public Records and Preservation Revenue Account Fund, coming up in regular order, were each read a first time and ordered to second reading,

And,

H. B. 4978, Expiring funds to the balance of the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 291, Requiring PEIA and health insurance providers provide mental health parity,

Com. Sub. for S. B. 551, Relating to Water and Wastewater Investment and Infrastructure Improvement Act,

Com. Sub. for S. B. 589, Creating Critical Needs/Failing Systems Sub Account,

Com. Sub. for S. B. 648, Providing dental coverage for adult Medicaid recipients,

And,

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 719, Imposing health care-related provider tax on certain health care organizations,

S. B. 740, Clarifying authorized users of Ron Yost Personal Assistance Services Fund,

S. B. 852, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund,

And,

S. B. 853, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority,

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

Miscellaneous Business

Delegate Sypolt noted to the Clerk that she was absent when the vote was taken on Com. Sub. for S. B. 125, and had she been present, she would have voted “Yea” thereon.

Delegate Rohrbach noted to the Clerk that he was absent when the votes were taken on Roll Nos. 445 through 455, and had he been present, he would have voted “Yea” thereon.

Pursuant to House Rule 94b, a form was filed with the Clerk’s Office to be added as a cosponsor of the following:

- Delegate Rohrbach for H. C. R. 8

At 11:13 a.m., the House of Delegates recessed until 7:00 p.m.

* * * * *

Evening Session

* * * * *

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

Reordering of the Calendar

Delegate Summers announced that the Committee on Rules had transferred Com. Sub. for H. B. 4975, Com. Sub. for H. B. 4976, H. B. 4977 and H. B. 4978, on Second Reading, Special Calendar, to the House Calendar; Com. Sub. for S. B. 175, Com.

Sub. for S. B. 230, Com. Sub. for S. B. 261, Com. Sub. for S. B. 288, S. B. 289, Com. Sub. for S. B. 303, Com. Sub. for S. B. 491, S. B. 510, Com. Sub. for S. B. 530, Com. Sub. for S. B. 575, S. B. 641, S. B. 647, Com. Sub. for S. B. 689, Com. Sub. for S. B. 692, Com. Sub. for S. B. 746, S. B. 747, S. B. 748, Com. Sub. for S. B. 749, S. B. 767, Com. Sub. for S. B. 770, S. B. 838 and S. B. 851, on Second Reading, House Calendar to the Special Calendar; and Com. Sub. for S. B. 195, Com. Sub. for S. B. 213, S. B. 322, Com. Sub. for S. B. 615, Com. Sub. for S. B. 660, Com. Sub. for S. B. 670, Com. Sub. for S. B. 690, Com. Sub. for S. B. 722 and Com. Sub. for S. B. 738, on First Reading, House Calendar, to the Special Calendar.

Unanimous consent having been obtained, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

S. B. 180, Relating to Second Chance Driver's License Program,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (S. B. 180) to the Committee on Finance was abrogated.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

Com. Sub. for S. B. 120, Establishing priorities for expenditures for plugging abandoned gas or oil wells,

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

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

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

Com. Sub. for S. B. 710, Establishing pilot program to evaluate telemedicine health services,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 193, Setting forth timeframes for continuing purchases of commodities and services over \$1 million,

Com. Sub. for S. B. 597, Relating to judicial branch members' salaries and pensions,

And,

Com. Sub. for S. B. 797, Authorizing governing boards of public and private hospitals employ hospital police officers,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims,

Com. Sub. for S. B. 579, Changing and adding fees to wireless enhanced 911 fee,

S. B. 843, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund,

S. B. 844, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund,

And,

Com. Sub. for S. B. 845, Supplemental appropriation from Treasury to DHHR, Division of Human Services,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 278, Providing various methods to deal with defendant who becomes incompetent during trial,

And,

S. B. 765, Modifying “Habitual Offender” statute,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 51, Specifying forms of grandparent visitation,

Com. Sub. for S. B. 253, Providing for fair pay and maximized employment of disabled persons,

S. B. 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity,

Com. Sub. for S. B. 711, Relating to juvenile jurisdiction of circuit courts,

And,

Com. Sub. for S. B. 717, Relating generally to adult protective services,

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

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 3rd day of March, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2338, Allowing the owner of an antique military vehicle to display alternate registration insignia,

H. B. 4411, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act,

H. B. 4477, West Virginia Mutual to Mutual Insurance Holding Company Act,

H. B. 4600, Relating to the definition of the term member regarding distributing premium tax proceeds,

And,

H. B. 4661, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 4077, Increasing the amount of the bond required to be posted by proprietary schools.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4083, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 16A. WEST VIRGINIA PARKWAYS,
ECONOMIC DEVELOPMENT AND TOURISM
AUTHORITY.**

§17-16A-13b. Collection of tolls through credit and debit cards.

(a) By July 1, 2023, or as soon thereafter as the provisions of this subsection can be implemented without conflicting with any of its existing agreements, including but not limited to covenants under any trust agreement securing bonds related to the turnpike or tolls, the authority shall implement procedures that allow tolls on the turnpike to be paid at each toll facility by credit and debit cards with technology designed to ensure that the transaction processing speed supports operational requirements of the authority. The authority may incorporate or add a cost adjustment to the amount of any toll paid at a toll facility by a credit card so that the amount collected covers all charges against the authority by the credit card

company or financial institution for accepting payment through the card: *Provided*, That the authority may also include in such cost adjustment an amount that will reimburse the authority for equipment necessary to offer such optional payment method: *Provided, however*, That such cost adjustment for the optional payment by a credit card is not subject to toll payments made through any West Virginia EZ Pass transponder or discount program as defined or authorized by §17-16A-29 of this code: *Provided further*, That the cost adjustment for the optional use of a credit card is not subject to the public notice or meeting requirement in §17-16A-13a of this code.

(b) The authority may limit the number of toll booths that accept payment by credit and debit cards at each toll collection point.

(c) The authority shall provide a progress report to the Joint Committee on Government and Finance no later than December 31 of each year until the provisions of this section are implemented. Such report shall include a description of the status of, and any impediments to, the implementation of the provisions of this section and may include any other information the authority deems relevant.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4083 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-16A-13b, relating to requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls on the West Virginia Turnpike; authorizing cost adjustments to the amount of tolls paid at a toll facility by credit card; clarifying application of the cost adjustment; declaring cost adjustment not subject to public notice or meeting requirement; and requiring reporting.”

With the further amendment, sponsored by Delegate Howell, being as follows:

On page one, section thirteen-b, line one, after “July 1”, by striking out “2023, or as soon thereafter as the provisions of this subsection can be implemented without conflicting with any of its existing agreements, including but not limited to covenants under any trust agreement securing bonds related to the turnpike or tolls” and inserting in lieu thereof the year “2022”.

The bill as amended by the Senate and further amended by the House, was put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 470**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, S. Brown, Graves, Hardy, Hicks, Kump, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4083) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4090, Creating the Oil and Gas Abandoned Well Plugging Fund.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page four, section three-a, lines sixty-three through seventy-one, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

“(e) After the dedication in §11-13A-5a is made, the remaining proceeds collected from the tax imposed at the rate prescribed

under subdivision (2), subsection (b) of this section are dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this code: *Provided*, That if on June 1, 2023, or on June 1 of any year thereafter, there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$6 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is reduced to zero for the taxable year beginning on and after the next succeeding January 1. The Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant to this subsection.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 471**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4090) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4137, Allowing counties to store and maintain voter registration records in a digital format.

A message from the Senate, by

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

Com. Sub. for H. B. 4217, Authorizing the Department of Environmental Protection to promulgate legislative rules.

A message from the Senate, by

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

Com. Sub. for H. B. 4352, Removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4434, West Virginia health care workforce sustainability study.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section nine, line eight, by striking out the word “and”.

On page one, section nine, line ten, after the word “code”, by changing the period to a semicolon and adding the following: “and

(G) Emergency Medical Service Agency, as defined by §16-4C-1 et seq. of this code.”

On page five, section nine, line ninety-seven, by striking out the word “and”.

On page five, section nine, line ninety-eight, after the word “Home”, by changing the period to a semicolon and adding the following: “and

(vii) Emergency Medical Service Agency.”

On page five, section nine, line one hundred seventeen, by striking out the word “and”.

On page five, section nine, line one hundred eighteen, after the word “Technician”, by changing the period to a semicolon and adding the following:

“(xx) Radiologic Technologist; and

(xxi) Emergency Medical Service Personnel.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 472**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Little, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4434) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4464, Relating to driving privileges and requirements for persons under the age of 18.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section three-a, line thirty-three, after the word “military”, by inserting a comma.

And,

On page six, section three-a, lines one hundred twenty-nine and one hundred thirty, by striking out the words “§17B-2-3a(c)(2)”

§17B-2-3a(d)(1)(A), §17B-2-3a(d)(1)(B), §17B-2-3a(d)(1)(C) or §17B-2-3a(d)(1)(D) of this code” and inserting in lieu thereof the words “§17B-2-3a(d)(2) of this code”.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4464 – “A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to graduated driver’s licenses; prohibiting holders of level three licenses from using a wireless communication device while operating a motor vehicle and specifying exception; making a violation of level three license terms and conditions subject to criminal penalty provision; and extending validity of level one instruction driver’s permits for active members of the military.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 473**), and there were—yeas 89, nays 1, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Summers.

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Little, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4464) passed.

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

A message from the Senate, by

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

H. B. 4480, Relating to legislative rules for the Higher Education Policy Commission.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4510, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 8. CRIMES BY AND PROCEEDINGS AGAINST INMATES.

§62-8-1. Offenses by inmates; conspiracy.

(a) A person imprisoned or otherwise in the custody of the Commissioner of Corrections ~~or the Executive Director of the Regional Jail and Correctional Facility Authority and Rehabilitation~~ is guilty of a felony if he or she kills, wounds, or inflicts other bodily injury upon any person at any correctional facility; or breaks, cuts, or injures, or sets fire to any building, fixture, or fastening of any correctional facility, or jail or any part thereof, for the purpose of escaping or aiding any other inmate to escape therefrom, or renders any correctional facility or jail less secure as a place of confinement; or makes, procures, secretes, or has in his or her possession, any instrument, tool, or other thing for such purpose, or with intent to kill, wound, or inflict bodily injury; or resists the lawful authority of an officer or guard of any correctional facility or jail for such purpose or with such intent. Any three or more inmates ~~so~~ confined, or in ~~such~~ custody, who conspire together to commit any offense mentioned in this section are each guilty of a felony.

(b) Any person in the custody of the Commissioner of Corrections and Rehabilitation who commits an act of bodily intrusion is guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years. As used in this subsection “bodily intrusion” means penetration.

however slight, of the anus of a male or female or the sex organ of a female without his or her consent by means of forcible compulsion and for reasons other than the sexual gratification of either person.”

And,

By amending the title of the bill to read as follows:

H. B. 4510 – “A Bill to amend and reenact §62-8-1 of the Code of West Virginia, 1931, as amended, relating to creating the offense of bodily intrusion by an inmate in the custody of the Commissioner of Corrections and Rehabilitation; defining terms; and establishing criminal penalties.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 474**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Little, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4510) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4529, Relating to the collection of assessments and the priority of liens on property within a resort area.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 25. RESORT AREA DISTRICTS.

§7-25-22. Liens; recording notice of liens; priority; release of lien; notice to future property owners.

(a) With the exception of property exempt from assessment pursuant to §7-25-18 of this code, there shall be a lien on all real property located within the resort area district for the assessments imposed by §7-25-17 of this code, which ~~lien~~ shall attach to those parcels made subject to the assessment on the date specified in the notice to property owners. A notice of the liens of ~~said~~ the assessments referring to the assessing resolution and setting forth a list of the property assessed, described respectively as to amounts of assessment, ownership, and location of the property, shall be certified, by the ~~chairman~~ chair and secretary of the board, to the clerk of the county commission of the county ~~wherein in which~~ the project is located. The county clerk shall record the notice of ~~such~~ the lien in the appropriate trust deed book or other appropriate county lien book and index the ~~same~~ lien in the name of each owner of real property assessed. From the date of an assessment, the trustee, for the benefit of bondholders if assessment bonds are issued by the resort area district, and/or the district ~~shall have such~~ has the lien and ~~shall be~~ is entitled to enforce the ~~same~~ lien in its, his, her, or their name to the extent of the amount, including principal and interest and any penalty due for any failure to pay an installment when due, of ~~such~~ the assessments and against the property to which the assessment applies, as to any assessment not paid as and when due. The trustee or the district, as an alternative to the enforcement provision set forth in §7-25-21 of this code, are granted all legal remedies ~~as are~~ necessary to collect the assessment. ~~Such~~ The assessments ~~shall be~~ are and constitute liens for the benefit of the resort area district or the trustee, for the benefit of bondholders if assessment bonds are issued by the resort area district, upon the respective lots and parcels of land assessed and ~~shall~~ have priority over all other liens except: to those (1) Any liens for land taxes due the state, county, and municipality; and except (2) any liens for preexisting special assessments provided under this code; and (3) any liens by a lien creditor, including, without

limitation, any lien creditor secured by a deed of trust lien, with respect to any of the lots or parcels of land with a lien properly recorded with the Clerk of the County Commission of the county in which the lots or parcels of land are located prior to the time that the notice of the assessment lien is recorded. If any assessment is revised in accordance with this article, the lien created by this section ~~shall extend~~ extends to the revised assessment ~~so revised~~ and ~~shall have~~ has the same priority as the priority of the lien created upon the laying of the original assessment. ~~Such~~ The assessments and interest thereon shall be paid by the owners of the property assessed as and when the installments are due. Following the payment in full of any assessment bonds including any interest thereon, the ~~chairman~~ chair and secretary of the board shall execute a release of all liens and shall certify the ~~same to~~ release to the county clerk for recondition.

(b) Following the grant of any assessment on property as provided in this article, the seller of ~~such~~ the property shall provide reasonable disclosure to the buyer in the real estate contract that an assessment has been granted on the property, the amount of the assessment, and the duration of the assessment.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 475**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Little, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4529) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4544, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-406. Distribution to persons under the age of 18 by persons over the age of 21; distribution by persons 18 or over in, on, or within 1,000 feet of, school or college; distribution by persons 18 or over in, on, or within 200 feet of a public library; increasing mandatory period of incarceration prior to parole eligibility.

(a) Notwithstanding any other provision of law to the contrary, a person is ineligible for parole for a period of three years if he or she is sentenced to the custody of the Commissioner of Corrections and Rehabilitation, for service of a sentence of incarceration and is convicted of a felony violation under the provisions of §60A-4-401(a)(i) of this code for distribution of a controlled substance and:

(1) Is 21 years of age or older at the time of the distribution upon which the conviction is based, and the person to whom the controlled substance was distributed was under the age of 18 years at the time of the distribution; ~~or~~

(2) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 1,000 feet of, the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university in this state; or

(3) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 200 feet of, the real property comprising a public library in this state.

(b) Notwithstanding any other provision of law to the contrary, a person is ineligible for parole for a period of two years if he or she is sentenced to the custody of the Commissioner of Corrections and Rehabilitation, for service of a sentence of incarceration and is convicted of a felony violation under the provisions of §60A-4-401(a)(ii) of this code for distribution of a controlled substance and:

(1) Is 21 years of age or older at the time of the distribution upon which the conviction is based, and the person to whom the controlled substance was distributed was under the age of 18 years at the time of the distribution; ~~or~~

(2) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 1,000 feet of, the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university in this state; or

(3) Is 18 years of age or older and the distribution upon which the conviction is based occurred in, on, or within 200 feet of, the real property comprising a public library in this state.

(c) The existence of any fact which would make any person subject to the provisions of this section may not be considered unless the fact is clearly stated and included in the indictment or presentment by which the person is charged and is either:

(1) Found by the court upon a plea of guilty or nolo contendere;

(2) Found by the jury, if the matter be tried before a jury, upon submission to the jury of a special interrogatory for such purpose; or

(3) Found by the court, if the matter be tried by the court without a jury.

(d) Nothing in this section ~~shall be construed to limit~~ limits the sentencing alternatives made available to circuit court judges under other provisions of this code.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4544 – “A Bill to amend and reenact §60A-4-406 of the Code of West Virginia, 1931, as amended, relating to applying a mandatory period of incarceration prior to parole eligibility to persons 18 years old or over who are convicted of distributing a controlled substance within 200 feet of a public library; and establishing criminal penalties.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 476**), and there were—yeas 69, nays 22, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Caputo, Diserio, Doyle, Evans, Fleischauer, Fluharty, Hansen, Hill, Hornbuckle, Lavender-Bowe, McGeehan, Pushkin, Pyles, Rowe, Sponaugle, C. Thompson, Walker and Williams.

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4544) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4559, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. LIMITATIONS OF ACTIONS AND SUITS.

§55-2-15. Special and general savings as to persons under disability.

(a) A personal action for damages resulting from sexual assault or sexual abuse of a person who was an infant at the time of the act or acts alleged, shall be brought against the perpetrator of the sexual assault or sexual abuse, within ~~four~~ 18 years after reaching the age of majority. or within four years after discovery of the sexual assault or sexual abuse, whichever is longer. A personal action for damages resulting from sexual assault or sexual abuse of a person who was an infant at the time of the act or acts alleged shall be brought against a person or entity which aided, abetted, or concealed the sexual assault or sexual abuse within 18 years after reaching the age of majority.

(b) If any person to whom the right accrues to bring any personal action other than an action described in subsection (a) of this section, suit, or scire facias, or any bill to repeal a grant, shall be, at the time the same accrues, an infant or insane, the same may be brought within the like number of years after his or her becoming of full age or sane that is allowed to a person having no such impediment to bring the same after the right accrues, or after such acknowledgment as is mentioned in §55-2-8 of this this code, except that it shall in no case be brought after 20 years from the time when the right accrues.

(c) The amendments to this section enacted during the 2020 Regular Session of the Legislature are intended to extend the statute of limitations for all actions whether or not an earlier established period of limitation has expired.”

And,

By amending the title of the bill to read as follows:

H. B. 4559 – “A Bill to amend and reenact §55-2-15 of the Code of West Virginia, 1931, as amended, relating to extending the limitation on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor; adding any person or organization which aided, abetted, or concealed the sexual assault or abuse to the extended statute of limitations; allowing victims to initiate actions for sexual assault or sexual abuse against perpetrators only within four years of discovery regardless of age; and clarifying effect of 2020 amendments as to possible actions.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 477**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Porterfield, Steele and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4559) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4620, Redefining definition of “recovery residence”.

A message from the Senate, by

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

H. B. 4647, Relating to limited video lottery permit holders.

A message from the Senate, by

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

Com. Sub. for H. B. 4729, Requiring higher education institutions to use previous versions or editions of instructional materials.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, changed the effective date, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

H. B. 4887, Relating to revocation, cancellation, or suspension of business registration certificates.

On motion of Delegate Summers, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom.

On page two, section five-b, lines twenty-two through thirty, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

“(b) If an individual or business entity has not filed any tax return or report for a tax or fee administered under the provisions of §11-10-1 et seq. of this code one year after having been issued a business registration certificate, the Tax Commissioner shall send the individual or business entity a letter by certified mail return receipt requested to the address for which the business registration certificate was issued requesting that the individual or business entity explain why no tax return or report was filed. If the individual or business entity fails to respond to the letter, whether the letter was received, claimed, unclaimed or refused, within 60 days after it was deposited in the United States mail, postage paid, the Tax Commissioner may begin the process to revoke the individual’s or business entity’s business registration certificate.”

And,

By amending the title of the bill to read as follows:

H. B. 4887 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-5b, relating to revocation, cancellation, or suspension of

business registration certificates where the registrant filed a false or fraudulent application for a business registration certificate, failed to pay taxes, additions to taxes, penalties, interest, or where the Secretary of State has revoked the registrant's authority to conduct business; establishing causes for revocation, cancellation, or suspension; directing means of notice and opportunity for cure; providing procedures therefor; and specifying effective date.”

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

A message from the Senate, by

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

H. B. 4955, Relating to reducing the cost of fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 201, Relating generally to criminal offenses of stalking and harassment.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with further title amendment, and the passage, as amended, of

S. B. 781, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

On motion of Delegate Kessinger, the House of Delegates concurred in the following Senate title amendment:

S. B. 781 – “A Bill to amend and reenact §18B-3C-16 of the Code of West Virginia, 1931, as amended, relating to modifying information required to be included in report to the Legislature and the Governor regarding the collaborative agreements between community and technical colleges and federally registered apprenticeship programs.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 478**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Boggs, Graves, Hardy, Hicks, Kump, Porterfield, Steele and Waxman.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 781) passed.

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

Delegate Summers moved that the House adjourn until 10:00 a.m., Wednesday, March 4, 2020.

Delegate Fluharty then moved to discharge **S. B. 850** from the Committee on the Judiciary.

The motion to adjourn having been made, at 7:33 p.m., the House of Delegates adjourned until 10:00 a.m., Wednesday, March 4, 2020.

Wednesday, March 4, 2020

FIFTY-SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, March 3, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 517, Creating State Parks and Recreation Endowment Fund,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 517) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 472, Providing alternative sentencing program for work release,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S.B. 472) was taken up for immediate consideration, read a first time and ordered to second reading.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4039, Providing limitations on nuisance actions against fire department and emergency medical services.

On motion of Delegate Summers, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom.

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Fire department and emergency medical services fixed sirens; limitations on nuisance actions.

(a) As used in this section, ‘fire department or emergency medical services fixed siren’ means a siren of a fire department or emergency medical services station that is installed at a fixed location in close proximity to the station or is necessary for the effective operation of the fire department or emergency medical services station.

(b) A person may not maintain a nuisance action for noise against a fire department or emergency medical services station located in the vicinity of that person’s property for noise generated by a fixed siren.”

And,

By amending the title of the bill to read as follows:

H. B. 4039 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to providing limitations on nuisance actions against fire department or emergency medical services fixed sirens.”

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4146, Relating to credit for reinsurance.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4. GENERAL PROVISIONS.

§33-4-15a. Credit for reinsurance.

(a) The purpose of this section is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The Legislature hereby declares its intent is to ensure adequate regulation of insurers and reinsurers, and the adequate protection for those to whom they owe obligations. In furtherance of that stated interest, it is hereby mandated that upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this section, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state Insurance Commissioner with

regulatory oversight, and the assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The Legislature further declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§1011-1012.

(b) (1) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), §33-4-15a(b)(2)(C), §33-4-15a(b)(2)(D), §33-4-15a(b)(2)(E), ~~or §33-4-15a(b)(2)(F), or §33-4-15a(b)(2)(G)~~ of this code; ~~provided further, that: *Provided, That*~~ the commissioner may adopt by rule pursuant to §33-4-15a(e)(2) of this code additional requirements relating to or setting forth:

(A) The valuation of assets or reserve credits;

(B) The amount and forms of security supporting reinsurance arrangements described in §33-4-15a(e)(2) of this code; and/or

(C) The circumstances pursuant to which credit will be reduced or eliminated.

(2) Credit shall be allowed under §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), or §33-4-15a(b)(2)(C) of this code only with respect to cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under §33-4-15a(b)(2)(C) or §33-4-15a(b)(2)(D) of this code only if the applicable requirements of ~~§33-4-15a(b)(2)(G)~~ §33-4-15a(b)(2)(H) of this code have been satisfied.

(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(B) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. To be eligible for accreditation, a reinsurer must:

(i) File with the commissioner evidence of its submission to this state's jurisdiction;

(ii) Submit to this state's authority to examine its books and records;

(iii) Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;

(iv) File annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(v) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is ~~deemed~~ considered to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than \$20 million and its accreditation has not been denied by the commissioner within 90 days after submission of its application.

(C)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(I) Maintains a surplus as regards policyholders in an amount not less than \$20 million; and

(II) Submits to the authority of this state to examine its books and records.

(ii) The requirement of §33-4-15a(b)(2)(C)(i)(I) of this code does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(D)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in §33-4-15a(d)(2) of this code, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' Annual Statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination.

(ii)(I) Credit for reinsurance ~~shall~~ may not be granted under this ~~subsection~~ paragraph unless the form of the trust and any amendments to the trust have been approved by the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(II) The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer ~~shall be~~ are subject to examination as determined by the commissioner.

(III) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing the balance of the trust and listing the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

(iii) The following requirements apply to the following categories of assuming insurer:

(I) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in §33-4-15a(b)(2)(D)(iii)(II) of this code.

(II) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(III)(a) ~~In the case of~~ When there is a group, including incorporated and individual unincorporated underwriters for

reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group.

(b) ~~In the case of~~ When there is a group, including incorporated and individual unincorporated underwriters for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(c) In addition to the trusts described in §33-4-15a(b)(2)(D)(iii)(III)(a) and §33-4-15a(b)(2)(D)(iii)(III)(b) of this code, the group shall maintain in trust a trustee surplus of which \$100 million shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(d) The incorporated members of the group ~~shall~~ may not be engaged in any business other than underwriting as a member of the group and ~~shall be~~ are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(e) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(IV) ~~In the case of~~ When there is a group of incorporated underwriters under common administration, the group shall:

(a) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation;

(b) Maintain aggregate policyholders' surplus of at least \$10 billion;

(c) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(d) In addition, maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

(e) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(E) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this paragraph.

(i) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(I) The assuming insurer ~~must~~ shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to §33-4-15a(b)(2)(E)(iii) of this code;

(II) The assuming insurer ~~must~~ shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to a rule ~~promulgated under~~ proposed pursuant to §33-4-15a(e) of this code;

(III) The assuming insurer ~~must~~ shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to a rule ~~promulgated under proposed pursuant to~~ §33-4-15a(e) of this code;

(IV) The assuming insurer ~~must~~ shall agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(V) The assuming insurer ~~must~~ shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(VI) The assuming insurer ~~must~~ shall satisfy any other requirements for certification deemed relevant by the commissioner.

(ii) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of §33-4-15a(b)(2)(E)(i) of this code:

(I) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;

(II) The incorporated members of the association ~~shall~~ may not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(III) Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association

shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(iii) The commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(I) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction ~~must~~ shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(II) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners' Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed by rules ~~promulgated~~ proposed pursuant to §33-4-15a(e) of this code.

(III) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance

Commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(IV) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner ~~has the discretion to~~ may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(iv) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies ~~deemed~~ considered acceptable to the commissioner as developed by rules ~~promulgated~~ proposed pursuant to §33-4-15a(e) of this code. The commissioner shall publish a list of all certified reinsurers and their ratings.

(v) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this ~~subsection~~ paragraph at a level consistent with its rating, as specified in rules ~~promulgated~~ proposed pursuant to §33-4-15a(e) of this code.

(I) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of §33-4-15a(c) of this code, or in a multibeneficiary trust in accordance with §33-4-15a(b)(2)(D) of this code, except as otherwise provided in this paragraph.

(II) If a certified reinsurer maintains a trust to fully secure its obligations subject to §33-4-15a(b)(2)(D) of this code, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this ~~subsection~~ paragraph or comparable laws of other United States jurisdictions and for its obligations subject to §33-4-15a(b)(2)(D) of this code. It shall be a condition to the grant of certification under this paragraph that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal

regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

(III) The minimum trusteed surplus requirements provided in §33-4-15a(b)(2)(D) of this code are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this paragraph, except that such trust shall maintain a minimum trusteed surplus of \$10 million.

(IV) With respect to obligations incurred by a certified reinsurer under this paragraph, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations ~~will~~ may not be paid in full when due.

(V) For purposes of this paragraph, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations. If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended. As used in this paragraph, the term 'terminated' refers to revocation, suspension, voluntary surrender, and inactive status.

(vi) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners' accredited jurisdiction, the commissioner ~~has the discretion to~~ may defer to that jurisdiction's certification, and ~~has the discretion to~~ may defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.

(vii) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for

its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this paragraph, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(F)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth in this paragraph.

(I) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A ‘reciprocal jurisdiction’ is a jurisdiction that meets one of the following:

(a) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, where there is a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this paragraph, a ‘covered agreement’ is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(b) A United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners’ financial standards and accreditation program; or

(c) A qualified jurisdiction, as determined by the commissioner pursuant to §33-4-15a(b)(2)(E)(iii) of this code, which is not otherwise described in §33-4-15a(b)(2)(F)(i)(I)(a) or §33-4-15a(b)(2)(F)(i)(I)(b) of this code and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified in rules proposed pursuant to §33-4-15a(c) of this code.

(II) The assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rules proposed pursuant to §33-4-15a(e) of this code. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rules proposed pursuant to §33-4-15a(e) of this code.

(III) The assuming insurer shall have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in rules proposed pursuant to §33-4-15a(e) of this code. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(IV) The assuming insurer shall agree and provide adequate assurance to the commissioner, in a form specified by the commissioner and as set forth in rules proposed pursuant to §33-4-15a(e) of this code, as follows:

(a) The assuming insurer shall provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in §33-4-15a(b)(2)(F)(i)(II) or §33-4-15a(b)(2)(F)(i)(III) of this code, or if any regulatory action is taken against it for serious noncompliance with applicable law;

(b) The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision may limit, or in any way alter, the

capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(c) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(d) Each reinsurance agreement shall include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(e) The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. The security shall be in a form consistent with the provisions of §33-4-15a(b)(2)(E) and §33-4-15a(c) of this code and as specified by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(V) The assuming insurer or its legal successor shall provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(VI) The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to

criteria set forth by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(VII) The assuming insurer's supervisory authority shall confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in §33-4-15a(b)(2)(F)(i)(II) and §33-4-15a(b)(2)(F)(i)(III) of this code.

(VIII) Nothing in this subparagraph precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(ii) In addition to the list of reciprocal jurisdictions published through the National Association of Insurance Commissioners' committee process, the commissioner shall timely create and publish a list of reciprocal jurisdictions.

(I) The commissioner's list shall include any reciprocal jurisdiction as defined under §33-4-15a(b)(2)(F)(i)(I)(a) and §33-4-15a(b)(2)(F)(i)(I)(b) of this code and shall consider any other reciprocal jurisdiction included on the National Association of Insurance Commissioners' list. The commissioner may approve a jurisdiction that does not appear on the National Association of Insurance Commissioners' list of reciprocal jurisdictions in accordance with criteria to be developed by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(II) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code, except that the commissioner may not remove from the list a reciprocal jurisdiction as defined under §33-4-15a(b)(2)(F)(i)(I)(a) and §33-4-15a(b)(2)(F)(i)(I)(b) of this code. Upon removal of a reciprocal jurisdiction from the list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in

that jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

(iii) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this paragraph and to which cessions shall be granted credit in accordance with this paragraph. The commissioner may add an assuming insurer to the list if a National Association of Insurance Commissioners accredited jurisdiction has added the assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under §33-4-15a(b)(2)(F)(i)(IV) of this code and complies with any additional requirements that the commissioner may impose by rules proposed pursuant to §33-4-15a(e) of this code, except to the extent that they conflict with an applicable covered agreement.

(iv) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this paragraph, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this paragraph in accordance with procedures set forth by the commissioner in rules proposed pursuant to §33-4-15a(e) of this code.

(I) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with §33-4-15a(c) of this code.

(II) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of §33-4-15a(c) of this code.

(v) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(vi) Nothing in this paragraph may limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or regulation.

(vii) Credit may be taken under this paragraph only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this paragraph, and only with respect to losses incurred and reserves reported on or after the later of:

(I) The date on which the assuming insurer has met all eligibility requirements pursuant to §33-4-15a(b)(2)(F)(i) of this code; and

(II) The effective date of the new reinsurance agreement, amendment, or renewal.

(a) This subparagraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this paragraph, as long as the reinsurance qualifies for credit under any other applicable provision of this section.

(b) Nothing in this paragraph may authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(c) Nothing in this paragraph may limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

~~(F)~~ (G) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), §33-4-15a(b)(2)(C), §33-4-15a(b)(2)(D), ~~or §33-4-15a(b)(2)(E), or §33-4-15a(b)(2)(F)~~ of this code, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

~~(G)~~⁽ⁱ⁾ (H)(i) If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by §33-4-15a(b)(2)(C) and §33-4-15a(b)(2)(D) of this code ~~shall~~ may not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(I) ~~That in the event of the~~ If there is a failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court ~~in the event of~~ upon an appeal; and

(II) To designate the Secretary of State as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(ii) This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

~~(H)~~ (I) If the assuming insurer does not meet the requirements of §33-4-15a(b)(2)(A), §33-4-15a(b)(2)(B), ~~or §33-4-15a(b)(2)(C), or §33-4-15a(b)(2)(F)~~ of this code, the credit permitted by §33-4-15a(b)(2)(D) or §33-4-15a(b)(2)(E) of this code ~~shall~~ may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(i) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by §33-4-15a(b)(2)(D)(iii) of this code, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(iii) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets, or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(iv) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(⊕) (J) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(i) The commissioner ~~must~~ shall give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the commissioner's order on hearing, unless:

(I) The reinsurer waives its right to hearing;

(II) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender

or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under §33-4-15a(b)(2)(E)(vi) of this code; or

(III) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(ii) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with §33-4-15a(c) of this code. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with §33-4-15a(b)(2)(E)(v) or §33-4-15a(c) of this code.

~~(J)~~ (K) Concentration Risk.

(i) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(ii) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed

this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) (1) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of §33-4-15a(b) of this code shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer; *Provided*, That the commissioner may adopt by rule pursuant to §33-4-15a(e)(2) of this code specific additional requirements relating to or setting forth:

(A) The valuation of assets or reserve credits;

(B) The amount and forms of security supporting reinsurance arrangements described in §33-4-15a(e)(2) of this code; and/or

(C) The circumstances pursuant to which credit will be reduced or eliminated.

(2) The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in §33-4-15a(d)(2) of this code. This security may be in the form of:

(A) Cash;

(B) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(C)(i) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in §33-4-15a(d)(1) of this code, effective no later than December 31 of the year for which the filing is being made, and in

the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

(ii) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(D) Any other form of security acceptable to the commissioner.

(d)(1) For purposes of §33-4-15a(c)(2)(C) of this code, a 'qualified United States financial institution' means an institution that:

(A) Is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof;

(B) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) Has been determined by either the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(2) A 'qualified United States financial institution' means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(A) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(B) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(e)(1) The commissioner may, to implement the provisions of this section, ~~promulgate emergency rules and propose legislative rules for adoption by the Legislature pursuant to propose rules for legislative approval in accordance with~~ the provisions of §29A-3-1 *et seq.* of this code.

(2) The commissioner is ~~further authorized to promulgate rules~~ may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code applicable to reinsurance arrangements as described in §33-4-15a(e)(2)(A) of this code.

(A) A rule adopted pursuant to §33-4-15a(e)(2) of this code may apply only to reinsurance relating to:

(i) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(ii) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(iii) Variable annuities with guaranteed death or living benefits;

(iv) Long-term care insurance policies; or

(v) Such other life and health insurance and annuity products as to which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance.

(B) A rule adopted pursuant to §33-4-15a(e)(2)(A)(i) or §33-4-15a(e)(2)(A)(ii) of this code, may apply to any treaty containing:

(i) Policies issued on or after January 1, 2015; and/or

(ii) Policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(C) A rule adopted pursuant to §33-4-15a(e)(2) of this code may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules ~~promulgated~~ proposed under this authority, to use the Valuation Manual adopted by the National Association of Insurance Commissioners under Section 11B(1) of the National Association of Insurance Commissioners' Standard Valuation Law, including all amendments adopted by the National Association of Insurance Commissioners and in effect on the date as of which the calculation is made, to the extent applicable.

(D) A rule adopted pursuant to this §33-4-15a(e)(2) of this code shall not apply to cessions to an assuming insurer that:

(i) Meets the conditions set forth in Section 2F of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law in this state or, if this state has not adopted provisions substantially equivalent to Section 2F of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law, the assuming insurer is operating in accordance with provisions substantially equivalent to Section 2F of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law in a minimum of five other states; or

(ii) Is certified in this state or, if this state has not adopted provisions substantially equivalent to Section 2E of the National Association of Insurance Commissioners' Credit for Reinsurance Model Law, certified in a minimum of five (5) other states; or

(iii) Maintains at least \$250 million in capital and surplus when determined in accordance with the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual, including all amendments thereto adopted by the National Association of Insurance Commissioners, excluding the impact of any permitted or prescribed practices; and is

(I) Licensed in at least 26 states; or

(II) Licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

(E) The authority to adopt rules pursuant to §33-4-15a(e)(2) of this code does not limit the commissioner's general authority to adopt rules pursuant to §33-4-15a(e)(1) of this code.

(f) This section shall become effective on January 1, 2019, and shall apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after January 1, 2019. The amendments to this section enacted during the regular session of the Legislature in the year 2020 shall apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after January 1, 2021."

And,

By amending the title of the bill to read as follows:

H. B. 4146 - "A Bill to amend and reenact §33-4-15a of the Code of West Virginia, 1931, as amended, relating to credit for reinsurance; allowing a credit on an insurer's annual statement when reinsurance is ceded to an assuming insurer and the assuming insurer is licensed in a reciprocal jurisdiction; defining terms; setting forth the criteria required regarding the credit for reinsurance; removing emergency rulemaking authority; providing rulemaking authority; imposing requirements and obligations on assuming insurer; imposing requirements for reinsurance agreements; imposing requirements on Insurance Commissioner; providing Insurance Commissioner authority concerning reciprocal jurisdictions and assuming insurers; requiring the Insurance Commissioner to create and publish a list of reciprocal jurisdictions and assuming insurers; and adding effective date."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 479**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4146) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4438, Relating to the licensing of advance deposit wagering.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 23. HORSE AND DOG RACING.

§19-23-12e. Licensing of advance deposit account wagering.

(a) As used in this section:

‘Account’ means an advance deposit wagering (ADW) account owned by an account holder and managed by an ADW licensee that the Racing Commission has determined will maintain a specific identifiable record of account deposits, wagers, credits, debits, and withdrawals, and protect the account holder’s confidential information.

‘Account holder’ means a resident individual, at least 18 years of age who applies for and successfully opens an account with an ADW licensee.

‘Advance deposit account wagering’ means a method of pari-mutuel wagering that is permissible under the Interstate Horseracing Act, 15 U.S.C. §3001 *et seq.*, in which an individual may establish an account with a person or entity, licensed by the Racing Commission, to place pari-mutuel wagers on horse or greyhound racing with the ADW licensee via electronic media or by telephone, but not including account wagering conducted through a licensee under §19-23-9(a) of this code, and the Racing Commission’s rules thereunder with respect to wagering conducted pursuant to Racing Commission Rule §178-5-5.

‘Advance deposit account wagering licensee’ means an entity licensed by the Racing Commission to conduct advance deposit account wagering that accepts deposits and wagers, issues a receipt or other confirmation to the account holder evidencing the deposits and wagers, and transfers credits and debits to and from an account.

‘ADW’ means advance deposit account wagering.

‘Confidential information’ means: (A) The amount of money credited to, debited from, withdrawn from, or present in an account; (B) the amount of money wagered by an account holder on any race or series of races, or the identities of racing associations on which the account holder is wagering or has wagered; (C) the account number and secure personal identification information of an account holder; and (D) unless authorized by the account holder, the name, address, or other information that would identify the account holder to any person or entity other than the Racing Commission or the ADW licensee that manages the account.

‘Electronic media’ means any electronic communication device or combination of devices, including, but not limited to, personal computers, the Internet, private networks, interactive televisions, and wireless communication technologies or other technologies approved by the Racing Commission.

‘Licensee’ means any racing association holding a license as defined by §19-23-3 of this code;

‘Located’ means, in regard to a resident account holder, where his or her principal residence is located.

‘Principal residence’ means the street address identified by a resident account holder as that individual’s residential address, as the address may be verified by the ADW licensee to the satisfaction of the Racing Commission.

‘Resident’ is an individual who: (A) Is domiciled in West Virginia; (B) maintains a place of abode and spends at least 183 days within a calendar year in West Virginia; or (C) lists an address in West Virginia as his or her principal residence when opening an account.

‘Source market fee’ means a fee paid by the ADW licensee which may be mutually agreed upon and set forth in an agreement between the ADW licensee and each individual racetrack licensed in this state who desires to offer ADW. A fully executed agreement shall be submitted to the Racing Commission. The Racing Commission is prohibited from disclosure of any information in the agreement. The information in the agreement shall remain confidential and shall not form part of any public record and is exempt from disclosure under the provisions of chapter 29B of this code. Such information may be publicly disclosed only for the purposes of an official law enforcement investigation, or when its production is required in a court proceeding. In the absence of such an agreement, if an ADW licensee offers ADW at a racetrack licensed in this state, the source market fee shall be four percent of the total amount wagered through the ADW licensee by residents under this section, excluding refunds and cancellations, payable on a monthly basis to the Racing Commission and distributed as set forth in subsection (b) of this section.

‘Total handle’ means the total annual dollar sales amount of all pari-mutuel wagering on horse and greyhound races conducted at, or generated from, imports or exports of simulcast horse and greyhound races to or from a licensee, including all moneys from

wagering conducted under §19-23-9, §19-23-12a, §19-23-12b, and §19-23-12c of this code, but excluding refunds, cancellations, and advance deposit account wagering under this section.

(b) The source market fee shall be paid by the ADW licensee on a monthly basis to the Racing Commission and distributed as provided in this subsection. The Racing Commission shall prorate all source market fees derived from wagers of account holders between the licensees by dividing each licensee's total handle by the total handle of all West Virginia licensees in the prior calendar year, and distribute the prorated amounts as follows:

(1) Ten percent of each horse racing licensee's prorated amount to the West Virginia Thoroughbred Development Fund or 10 percent of each dog racing licensee's prorated amount to the West Virginia Racing Commission Special Account-West Virginia Greyhound Breeding Development Fund;

(2) Forty-five percent to the purse fund of each prorated licensee; and

(3) Forty-five percent to each prorated licensee.

(c) The advance deposit account wagers placed by account holders with an ADW licensee licensed by the Racing Commission in accordance with this section are authorized, and the provisions of §61-10-1 *et seq.* of this code relating to gaming do not apply to advance deposit account wagering conducted in accordance with this section.

(d) The Racing Commission is vested with jurisdiction over any person or entity that solicits account holders or offers advance deposit account wagering in West Virginia. Any person or entity that solicits account holders or offers advance deposit account wagering in West Virginia shall be licensed and the Racing Commission may impose a nonrefundable initial and annual renewal licensing application fee not to exceed \$5,000. The Racing Commission may also require any applicant for an initial or renewal ADW license to bear the costs involved in conducting background checks and reviews. If a licensee or an affiliate of a

licensee applies for an ADW license under this section, all fees under this subsection shall be deemed paid and an ADW license issued as part of a licensee's annual licensing, or, if the license application is submitted apart from annual licensing, an ADW license shall be issued at the time the application is submitted.

(e) A person or entity may not conduct advance deposit account wagering in West Virginia unless the person or entity has applied for and been granted an ADW license by the Racing Commission. The Racing Commission shall also ensure that, except for advance deposit account wagering authorized under this section, all pari-mutuel wagering on racing is conducted within the confines of a licensee's racetrack or licensed contiguous hotel, as permitted under §19-23-9(a) and §19-23-12a(1) of this code and implementing rules thereunder, including Racing Commission Rule §178-5-5, or within an authorized gaming facility in a historic resort hotel, as permitted under §19-23-12d of this code and implementing rules thereunder.

(f) Any person who is not licensed as an advance deposit account wagering licensee by the Racing Commission who accepts an advance deposit account wager from a resident is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000 or imprisoned in a state correctional facility not more than five years, or both fined and imprisoned. Further, the court shall order any convicted person to pay restitution to recover all amounts that would have been payable to the Racing Commission under this section.

(g) The Racing Commission may seek injunctive relief against any person who is not licensed as an advance deposit account wagering licensee by the Racing Commission who accepts or attempts to accept an advance deposit account wager from a resident. The Racing Commission may also seek recovery of all amounts that would have been payable to the Racing Commission under this section, damages equal to three times the amount of recovery, and reasonable costs and attorney fees. Damages recovered by the Racing Commission shall be distributed as source market fees under this section.

(h) There is hereby assessed a regulatory fee paid by the ADW licensee, which shall be one-half percent of the total amount wagered through the ADW licensee by residents under this section, excluding refunds and cancellations, payable on a monthly basis to the Racing Commission for deposit into the Racing Commission's general administrative account.

(j) There is further assessed an additional fee paid by the ADW licensee, which shall be one and one-half percent of the total amount wagered through the ADW licensee by residents under this section, excluding refunds and cancellations, payable on a monthly basis to the Racing Commission for deposit into a special revenue account in the State Treasury to be known as the 'Advance Deposit Wagering Account' to be expended pursuant to appropriation of the Legislature.

(j) Advance deposit account wagers placed by residents are considered to be wagering conducted in this state and subject to the laws of this state and the rules of the Racing Commission.

(k) The Racing Commission shall submit a report by December 31, 2020, and annually thereafter to the Joint Committee on Government and Finance detailing the operation of ADW in this state. The report shall include, but is limited to, the following:

(1) The number of racetracks in this state participating in ADW;

(2) The number of privately negotiated source market fee agreements;

(3) The total amount of funds paid to the Racing Commission pursuant to subsection (h) of this section;

(4) The total amount deposited in the preceding 12-month period in the special revenue account set forth in subsection (i) of this section;

(5) The amounts distributed as set forth in subdivision (b) of this section;

(6) A complete list of ADW licensees offering ADW services in this state;

(7) Beginning with the report due December 31, 2021, a statistical comparison of ADW services to the preceding year; and

(8) The total amount of wagering in this state directly attributable to ADW.

(1) The Racing Commission may propose legislative rules for promulgation, pursuant to §29A-3-1 et seq. of this code, to implement this section and may propose emergency rules to provide conditions for the licensing of advance deposit account wagering. Those rules may include, but are not limited to: (1) standards, qualifications, and procedures for the issuance of an advance deposit account wagering license in West Virginia; (2) rules establishing initial and renewal license fees and payment of same to the Racing Commission to cover the costs of licensing ADW licensees; (3) provisions regarding the collection and distribution of those fees; (4) provisions regarding access to books and records and submission to investigations and audits by the Racing Commission; (5) standards and procedures for opening, maintaining, operating, and securing ADW accounts, as well as protecting confidential information therein; and (6) any other conditions to ensure an orderly process of accepting ADW wagers in acting in the best interests of the West Virginia horse and dog racing industries.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4438 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to the licensing of advance deposit wagering; defining terms; providing for source market fees; providing for privately negotiated source market fees; providing for a statutory source market fee in the absence of an agreement; providing for certain distribution of source market fees derived from wagers of account holders; providing that advance deposit

account wagers are authorized; providing exception from certain provisions of code; conferring jurisdiction to the Racing Commission; providing for the assessment and imposition of licensing and annual renewal fees; providing that applicants may bear certain costs; providing for a special revenue account; providing for a fee to be paid by advance deposit wagering licensees and deposited into the special revenue account; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee; exempting advance deposit wagering from certain provisions of code and implementing rules; providing for criminal penalties for accepting advance deposit wagers without a license; providing authority for the Racing Commission to seek civil remedies and damages; providing for a regulatory fee; providing that all advance deposit wagers placed by residents within the state are considered to be wagering within West Virginia subject to the laws of this state and rules of the Racing Commission; providing for an investigation as to whether nonresident account holders of a licensee placed wagers while physically located in West Virginia; providing for an annual report of the Racing Commission; setting forth elements of the report; and authorizing rulemaking and emergency rulemaking.”

With the further amendment, sponsored by Delegates Householder and Summers, being as follows:

On page two, section twelve-e, beginning on line forty-one, following the words “by the ADW licensee which”, by striking out the words “may be mutually agreed upon and set forth in an agreement between the ADW licensee and each individual racetrack licensed in this state who desires to offer ADW. A fully executed agreement shall be submitted to the Racing Commission. The Racing Commission is prohibited from disclosure of any information in the agreement. The information in the agreement shall remain confidential and shall not form part of any public record and is exempt from disclosure under the provisions of chapter 29B of this code. Such information may be publicly disclosed only for the purposes of an official law enforcement investigation, or when its production is required in a court

proceeding. In the absence of such an agreement, if an ADW licensee offers ADW at a racetrack licensed in this state, the source market fee”.

On page five, section twelve-e, beginning on line one hundred nineteen, by striking out subsection (k) in its entirety and inserting in lieu thereof a new subsection (k) to read as follows:

“(k) The Racing Commission shall submit a report by December 31, 2020, and annually thereafter to the Joint Committee on Government and Finance detailing the operation of ADW in this state. The report shall include, but is not limited to, the following:

(1) A complete list of ADW licensees offering ADW services;

(2) The total amount of funds paid to the Racing Commission pursuant to subsection (h) of this section;

(3) The total amount deposited in the preceding 12-month period in the special revenue account set forth in subsection (i) of this section;

(4) The amounts distributed as set forth in subdivision (b) of this section;

(5) Beginning with the report due December 31, 2021, a statistical comparison of ADW services to the preceding year; and

(6) The total amount of wagering by West Virginia residents through ADW Licensees.”

And,

And with further title amendment, sponsored by Delegates Summers and Householder, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4438 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to the licensing of advance deposit wagering; defining terms; providing for source market fees;

providing for certain distribution of source market fees derived from wagers of account holders; providing that advance deposit account wagers are authorized; providing exception from certain provisions of code; conferring jurisdiction to the Racing Commission; providing for the assessment and imposition of licensing and annual renewal fees; providing that applicants may bear certain costs; providing for a special revenue account; providing for a fee to be paid by advance deposit wagering licensees and deposited into the special revenue account; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee; exempting advance deposit wagering from certain provisions of code and implementing rules; providing for criminal penalties for accepting advance deposit wagers without a license; providing authority for the Racing Commission to seek civil remedies and damages; providing for a regulatory fee; providing that all advance deposit wagers placed by residents within the state are considered to be wagering within West Virginia subject to the laws of this state and rules of the Racing Commission; providing for an investigation as to whether nonresident account holders of a licensee placed wagers while physically located in West Virginia; providing for an annual report of the Racing Commission; setting forth elements of the report; and authorizing rulemaking and emergency rulemaking.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 480**), and there were—yeas 72, nays 27, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Cooper, Fast, Hott, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Mandt, C. Martin, P. Martin, Pack, Paynter, Porterfield, Rowan, Steele, Sypolt, Toney, Wilson and Worrell.

Absent and Not Voting: Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4438) passed.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment and changed effective date, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

H. B. 4466, Certificates of Insurance Act.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section two, line three, after the word “evidence”, by inserting the words “or confirmation of the existence”.

On page one, section two, line four, after the word “a”, by inserting the words “statement of declaration” followed by a comma.

On page two, section six, line one, after the word “issued”, by inserting the words “in connection with a property or casualty insurance policy issued or renewed on or after July 1, 2020, and”.

On page three, section seven, lines four through six, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

“(b) The commissioner may enforce the provisions of this article by any means permissible in this chapter, including by issuing orders to cease and desist. Any person who violates a provision of this article may, after notice and hearing pursuant to §33-2-13 of this code, be fined by the commissioner a sum not to exceed \$1,000 per violation.”

And,

On page three, section seven, line eight, by striking out “§29-3-1” and inserting in lieu thereof “§29A-3-1”.

And,

By amending the title of the bill to read as follows:

H. B. 4466 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6 and §33-53-7, all relating to certificates of insurance for property or casualty insurance; specifying short title; defining terms; establishing form requirements; providing limitations for certificates of service; setting forth limitations on use; addressing notice requirements; setting forth applicability and internal effective date; and providing for enforcement by Commissioner of Insurance, for penalties, and for rulemaking.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 481**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: J. Jeffries and Paynter.

Absent and Not Voting: Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4466) passed.

Delegate Kessinger moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 482**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, J. Jeffries, P. Martin and McGeehan.

Absent and Not Voting: Hicks, Summers and Waxman.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4466) takes effect July 1, 2020.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4522, Allowing division to accept documents compliant with Real ID Act for proof of identity.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-8. Issuance and contents of licenses; fees.

(a) The division shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver’s license, which shall indicate the type or general class or classes of vehicle or vehicles the licensee may operate in accordance with this chapter or chapter 17E of this code, or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the full legal name, to be displayed in a manner selected by the applicant when supported by appropriate documentation and consistent with federal law, this code, and existing system capabilities of the division, date of birth, residence address, a brief description and a color photograph of the licensee, and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee is written with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

(b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle endorsement. A driver's license which is valid for the operation of a commercial motor vehicle shall be issued in accordance with chapter 17E of this code.

(c) The division shall use such process or processes in the issuance of licenses that will, insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction, forging or modification of, or the superimposition of a photograph on, the license.

(d) The fee for the issuance of a Class E driver's license is \$5 per year for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year. The fee for issuance of a Class D driver's license is \$6.25 per year for each year the license is valid. An additional fee of 50 cents shall be collected from the applicant at the time of original issuance or each renewal, and the additional fee shall be deposited in the Combined Voter Registration and Driver's Licensing Fund established pursuant to the provisions of §3-2-12 of this code. The additional fee for adding a motorcycle endorsement to a driver's license is \$1 per year for each year the license is issued.

(e) The fee for issuance of a motorcycle-only license is \$2.50 for each year for which the motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as established in §17B-1D-7 of this code.

(f) The fee for the issuance of either the level one or level two graduated driver's license as prescribed in §17B-2-3a of this code is \$5.

(g) The fee for issuance of a federally compliant driver's license or identification card for federal use is \$10 in addition to any other fee required by this chapter. Any fees collected under the provisions of this subsection shall be deposited into the Motor

Vehicle Fees Fund established in accordance with §17A-2-21 of this code.

(h) The division may use an address on the face of the license other than the applicant's address of residence if:

(1) The applicant has a physical address or location that is not recognized by the post office for the purpose of receiving mail;

(2) The applicant is enrolled in a state address confidentiality program or the alcohol test and lock program;

(3) The applicant's address is entitled to be suppressed under a state or federal law or suppressed by a court order; or

(4) At the discretion of the commissioner, the applicant's address may be suppressed to provide security for classes of applicants such as law-enforcement officials, protected witnesses, and members of the state and federal judicial systems.

(i) Notwithstanding any provision in this article to the contrary, a valid military identification card with an expiration date issued by the United States Department of Defense for active duty, reserve, or retired military personnel containing a digitized photo and the holder's full legal name may be used to establish current full legal name and legal presence. The commissioner may at his or her discretion expand the use of military identification cards for other uses as permitted under this code or federal rule.

(j) The division may accept any document as proof of identity, residency, and lawful presence that is acceptable under the Real ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302 (May 11, 2005), 49 U.S.C. §30301 et seq."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4522 – “A Bill to amend and reenact §17B-2-8 of the Code of West Virginia, 1931, as amended, relating to the issuance and content of driver's licenses; providing for

display of name in manner selected by applicant when supported by appropriate documentation; and allowing Division of Motor Vehicles to accept documents compliant with federal Real ID Act as proof of identity, residency, and lawful presence.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 483**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4522) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4760, Modifying video lottery retailer licensing eligibility requirements.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section one thousand two hundred and two, line seventeen, after the word “section”, by changing the period to a colon and inserting the following proviso: “*Provided*, That a fraternal organization for which a private club license to dispense alcoholic liquors, under the provisions of §60-7-1 *et seq.* of this code, or a Class A nonintoxicating beer license, under the provisions of §11-16-1 *et seq.* of this code, which was granted prior to January 1, 2001, and which has remained in continuous operation since January 1, 2001, may, for good cause shown, obtain

approval to be exempt from subsections (a) and (c) of this section, upon approval of the Commission.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 484**), and there were—yeas 84, nays 15, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Butler, Cadle, Fast, D. Jeffries, Jennings, J. Kelly, Kump, Mandt, Paynter, Porterfield, Toney, Wilson and Worrell.

Absent and Not Voting: Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4760) passed.

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

Delegate Summers obtained unanimous consent to return to further consideration of **Com. Sub. for H. B. 4438**.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 485**), and there were—yeas 78, nays 21, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Fast, Hott, D. Jeffries, J. Jeffries, Jennings, J. Kelly, Mandt, C. Martin, P. Martin, Paynter, Porterfield, Rowan, Steele, Toney and Worrell.

Absent and Not Voting: Waxman.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4438) takes effect July 1, 2020.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4773, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 5AA. SCREENING PROTOCOLS FOR ADVERSE CHILDHOOD EXPERIENCES.

§16-5AA-1. Development of Screening Protocols for Adverse Childhood Experiences.

(a) The Commissioner of the Bureau for Public Health may form a workgroup to conduct a study of adverse childhood experiences and their impact on the people of West Virginia. The workgroup may be comprised of the following members:

(1) The Commissioner of the Bureau of Children and Families, or his or her designee;

(2) The Dean of the West Virginia University School of Medicine, or his or her designee;

(3) The Dean of the Marshall University Joan C. Edwards School of Medicine, or his or her designee;

(4) The Dean of the West Virginia School of Osteopathic Medicine, or his or her designee;

(5) The Executive Director of the West Virginia Herbert Henderson Office of Minority Affairs, or his or her designee;

(6) The Director of the Office of Maternal, Child and Family Health, or his or her designee;

(7) Up to three representatives of primary care providers chosen by the West Virginia Primary Care Association;

(8) Up to three representatives of behavioral healthcare providers chosen by the West Virginia Behavioral Healthcare Providers Association;

(9) Up to two members chosen by the Adverse Childhood Experiences Coalition of West Virginia;

(10) One member chosen by the West Virginia Rural Health Association;

(11) One member chosen by the West Virginia Hospital Association;

(12) One member chosen by the West Virginia Nurses Association;

(13) One member chosen by the West Virginia Chapter of the American Academy of Pediatrics;

(14) One member chosen by the West Virginia State Medical Association;

(15) One member chosen by the West Virginia Osteopathic Medical Association;

(16) One member chosen by the West Virginia Academy of Family Physicians;

(17) One member chosen by the West Virginia Association of Physician Assistants;

(18) One member chosen by the West Virginia Association of School Nurses;

(19) One member representing parents chosen by the West Virginia Circle of Parents Network;

(20) One member chosen by the West Virginia Foster, Adoptive and Kinship Network;

(21) The Commissioner of the Bureau for Behavioral Health, or his or her designee;

(22) One representative of the West Virginia Defending Childhood Initiative, commonly referred to as 'Handle With Care,' chosen by the West Virginia Children's Justice Task Force;

(23) One member chosen by the West Virginia Chapter of the National Association for the Advancement of Colored People; and

(24) The West Virginia State Superintendent of Schools, or his or her designee.

(b) The Commissioner of the Bureau for Public Health may designate additional persons who may participate in the meetings of the workgroup; *Provided*, That any such person must be the administrative head of the office or division whose functions necessitate his or her inclusion in this process.

(c) The workgroup may develop recommended guidance, tools, and protocols for primary health care practitioners to undertake the following:

(1) Provide information to patients regarding the impact of adverse and positive childhood experiences on physical and mental health, and the risks and benefits of screening patients for adverse child experiences;

(2) Screen patients for adverse child experiences, childhood trauma, and positive childhood experiences that may impact a patient's physical or mental health or the provision of health care services to the patient; and

(3) Within the context of a comprehensive systems approach, provide clinical response that medical providers should follow after screening, such as:

(A) Applying principles of trauma-informed care;

(B) Identification and treatment of adverse childhood experiences and associated health conditions;

(C) Patient education about toxic stress and buffering interventions, including supportive relationships, mental health treatment, exercise, sleep hygiene, healthy nutrition, and mindfulness and meditation practices;

(D) Validation of existing strengths and protective factors;

(E) Referral to patient resources which may include, but are not limited to, counseling and treatment programs, community-based medical and non-medical resources, and family support programs; and

(F) Follow-up as necessary.

(d) The workgroup may develop recommendations for education and training requirements to be completed for administering the screening process, trauma-informed care, and clinical response as described in this section.

(e) The Bureau for Public Health may provide staff for the workgroup. The workgroup may schedule one public hearing in each of the congressional districts in West Virginia as it relates to the screening protocols for adverse childhood experiences. The workgroup may develop and approve a final report by June 30, 2021, and a copy may be submitted to the Joint Committee on Government and Finance of the Legislature and the Governor. The workgroup will sunset on March 31, 2022.

(f) The Bureau for Public Health may develop screening protocols for adverse childhood experiences and make recommendations in a report to be submitted to the Governor no later than December 31, 2021: *Provided*, That prior to submission,

the bureau may present its proposed screening protocols for adverse childhood experiences to the Legislative Oversight Committee on Health and Human Resources within 90 days after development of the drafts and prior to submission of the final protocols to the Governor. The Legislative Oversight Committee on Health and Human Resources shall have 90 days to review the standards and provide input to the bureau, which shall consider such input when developing the final standards for submission to the Governor. Upon submission to the Governor, the report may be distributed to all health care provider organizations in the state for consideration for adoption.

(g) Any screening protocols for adverse childhood experiences drafted pursuant to this section shall not become effective until on or after March 31, 2021.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4773 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5AA-1, relating to creating a workgroup; designating members; authorizing workgroup to develop recommended protocols; authorizing workgroup to develop recommended education and training requirements; authorizing staff; providing for public hearings; providing for report; providing for sunset; authorizing screening protocols; and providing for effective date for screening protocols.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 486**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby.

Absent and Not Voting: Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4773) passed.

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

At 11:01 a.m., the House of Delegates began to evacuate the Chamber due to a fire alarm.

The House of Delegates was called back to order by the Honorable Roger Hanshaw, Speaker, at 12:15 p.m.

Messages from the Senate

-continued-

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4790, Relating to Career Technical Education for middle school students.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section seven-d, line twenty-three, by striking out the words “home economics” and inserting in lieu thereof the words “family and consumer sciences”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 487**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Robinson.

Absent and Not Voting: Anderson, J. Kelly, Longstreth, McGeehan, Miley, Walker and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4790) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, with changed effective date, to take effect from passage, of

H. B. 4882, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state.

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

On this question, the yeas and nays were taken (**Roll No. 488**), and there were—yeas 79, nays 16, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Butler, Fast, Hanna, Hicks, D. Jeffries, Jennings, Kump, C. Martin, P. Martin, Pack, Porterfield, Rowan, Toney and Worrell.

Absent and Not Voting: Anderson, J. Kelly, Longstreth, McGeehan and Waxman.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4882) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4925, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules ~~and regulations~~ by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students.

(a) The county boards of education ~~are hereby granted and~~ shall exercise the control, supervision, and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of ~~said~~ those schools of their respective counties. The county board of education may delegate ~~such~~ control, supervision, and regulation of interscholastic athletic events and band activities to the West Virginia Secondary School Activities Commission. ~~which is hereby established~~

(b) The West Virginia Secondary School Activities Commission ~~shall be~~ is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to ~~said~~ the commission. The West Virginia Secondary School Activities Commission ~~is hereby~~

~~empowered to~~ may exercise the control, supervision, and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules ~~and regulations~~ of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this code. County boards of education ~~are hereby authorized to~~ may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to ~~such~~ the commission, as well as moneys derived from any contest or other event sponsored by ~~said~~ the commission, ~~shall be~~ are quasi-public funds as ~~the same~~ are defined in §18-5-1 *et seq.* of this code, and ~~such~~ the funds of the commission ~~shall be~~ are subject to an annual audit by the State Tax Commissioner.

(c) The West Virginia Secondary School Activities Commission shall promulgate reasonable rules ~~and regulations~~ providing for the control, supervision, and regulation of the interscholastic athletic events and other extracurricular activities of ~~such~~ private and parochial secondary schools as elect to delegate to ~~such~~ the commission ~~such~~ control, supervision, and regulation, upon the same terms and conditions, subject to the same ~~regulations~~ rules and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

(d) Notwithstanding any other provision of this section, or the commission's rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is

receiving home instruction pursuant to §18-8-1(c) of this code and who:

(1) Has demonstrated satisfactory evidence of academic progress for one year in compliance with the provisions of that subsection: *Provided*, That the student's average test results are within or above the fourth stanine in all subject areas;

(2) Is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policy of the county board in which the home-schooled student lives and the State Board;

(3) Has not reached the age of 19 by August 1 of the current school year;

(4) Is an amateur who receives no compensation but participates solely for the educational, physical, mental and social benefits of the activity;

(5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the home-schooled student lives; and

(6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic athletic events and other extracurricular activities at the public secondary school serving the attendance zone in which the student lives: *Provided*, That home-schooled students who leave a member school during the school year are subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

(e) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose

participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to subsection (b) of this section, if necessary, to carry out the intent of this subsection.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4925 - “A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Secondary School Activities Commission; providing for participation by home schooled students in extracurricular activities; setting forth eligibility requirements for home schooled students to participate in extracurricular activities at member schools under certain circumstances; providing that member-to-member transfer protocols apply and providing that reasonable fees may be charged; and requiring the West Virginia Secondary School Activities Commission to recognize certain preparatory athletic programs as nonparticipating members of the commission solely for the purpose of competing on the national level.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Hansen and Walker.

Absent and Not Voting: Anderson, Longstreth, McGeehan and Waxman.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4925) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, with changed effective date, to take effect from passage, of

H. B. 4959, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties.

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

On this question, the yeas and nays were taken (**Roll No. 490**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Anderson, Longstreth, McGeehan and Waxman.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4959) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 4, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

Com. Sub. for H. C. R. 13, Watts Brothers Memorial Road.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 14, U. S. Army, Staff Sargent Wendell Otho Casto Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 19, Gold Star Families Highway.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

Com. Sub. for H. C. R. 32, Wolfe Brothers, Edward, William, Paul, George and Fred, WW II Veterans Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 34, Requesting the Division of Highways to place at least 10 additional signs along highways entering West Virginia honoring fallen veterans and Gold Star Families.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 38, U. S. Army PFC Nile C. Ballard Memorial Road.

A message from the Senate, by

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

S. C. R. 9 - "Requesting the Division of Highways name bridge number 05-2/2-0.35 (05A071), locally known as Zeidler Bridge, carrying CR 2/2 over Short Creek in Brooke County, the 'U.S. Army SSG Nick P. Markos Memorial Bridge'."

Whereas, Nick P. Markos was born on May 9, 1923, the child of Paul S. Markos and Diamanto Markos of Short Creek, West Virginia. He had three siblings: Manuel, Stella, and Goldie; and

Whereas, Nick P. Markos attended school in Brooke County, West Virginia, at Beech Bottom Elementary and Junior High, and graduated from Wellsburg High School in 1941. Following high school, he worked at Markos Grocery Store while attending West Virginia University. During his fourth semester of college, he left school to enlist in the United States Army; and

Whereas, SSG Nick P. Markos entered the active service on May 12, 1943, and he became a member of the Company I, 242nd Infantry, which was known as the 42nd Rainbow Division. His unit arrived in France on December 8, 1944, and participated in G033WD45: Rhineland Central Europe. SSG Nick P. Markos fought on the front lines until his unit commander was notified of his brother Manuel's death in Iwo Jima on February 19, 1945. After leaving Europe, he arrived in Fort George Meade, Maryland, and was honorably discharged on April 4, 1946; and

Whereas, SSG Nick P. Markos attained the following military qualifications: Combat Infantryman Badge, Expert M-3 SMG, Expert Rifle M-1, and Expert M-1 Carbine; and

Whereas, For his service, SSG Nick P. Markos received the Good Conduct Medal, American Theater Ribbon, European-African-Middle Eastern Ribbon, and World War II Victory Ribbon; and

Whereas, After returning home from the war, SSG Nick P. Markos worked in the family grocery store. Shortly thereafter, he went to the National School of Meat Cutting in Toledo, Ohio. After graduation, SSG Nick P. Markos worked for the Thorofare, Bi-Rite, and Foodland supermarket chains as a professional meat cutter. In 1967, he was appointed the postmaster for Short Creek. He held that position until his retirement in 1990. In 1972, SSG Nick P. Markos founded Nick's W-2 1099 Income Tax Service, and operated it until 2002; and

Whereas, In 1948, SSG Nick P. Markos married Gertrude Frey. They had three children: Manuel, Paul, and Deborah. All three children attended West Virginia colleges and obtained degrees in education; and

Whereas, SSG Nick P. Markos played a part in establishing various little league sports programs within his community, including the NSS Town and Country Little League Baseball Organization with teams from Short Creek, Bethany, Windsor Heights, Hammond, West Liberty, Clinton, Warwood, and Park View. He later helped establish a pony league baseball and little league basketball; and

Whereas, SSG Nick P. Markos attended Saint John the Divine Greek Orthodox Church in Wheeling his entire life, and he and his family were deeply involved with the church; and

Whereas, SSG Nick P. Markos loved sports, and played baseball and basketball in his youth. As an adult, he regularly participated in bowling and golf; and

Whereas, Staff Sergeant Markos passed on July 17, 2002; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army SSG Nick P. Markos and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 05-2/2-0.35 (05A071), known as Zeidler Bridge, carrying CR 2/2 over Short Creek in Brooke County, the “U.S. Army SSG Nick P. Markos Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army SSG Nick P. Markos Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 42 - “Requesting the Division of Highways name bridge number 32-025/00-005.38 (32A098), locally known as Hans Creek Bridge, carrying CR 25 over Hans Creek in Monroe County, the ‘U.S. Army CPL Richard “Warren” Ellison Memorial Bridge’.”

Whereas, Richard “Warren” Ellison was born December 29, 1924, at home in the “Big House” on the family farm at Hans Creek, West Virginia, the son of the late Addison Dunlap and Emma Catherine Kyle Ellison. In his early days, Warren attended a one room schoolhouse on Hans Creek, then when the family moved to Morgantown, he attended Elementary and Junior High Schools there. From Morgantown, he moved with his sister, Catherine, to the Roanoke- Salem, Virginia area and graduated in

1942 from Andrew Lewis High School in Salem, Virginia. In 1943 he married the love of his life, Juliet “Judy” Ellen Kuhn of Huntington, West Virginia; and

Whereas, Warren was inducted into the U.S. Army in September of 1944. Warren served in the Pacific Theatre during World War II on Okinawa and in the Philippines until he was Honorably Discharged in November of 1946, the rank of corporal; and

Whereas, Warren furthered his education in 1947 in agriculture at West Virginia University. He was a member of the WV Farm Bureau since 1959, serving as secretary and treasurer. He was a member and elder of the Centerville Presbyterian Church at Greenville, West Virginia. He was a director and Chairman of the Board of the Bank of Greenville and served as a supervisor for the Greenbrier Valley Soil Conservation District for eight years and for one term as county committeeman for the Farmer’s Home Administration. Part of his involvement with the Extension was as a 4-H Leader for the Handy Hans 4-H Club for many years, and his other community involvement was extensive. Warren had dedicated his entire life to farming, his family, and helping others. He, along with his son Bert, has owned and operated the family farm on Hans Creek, West Virginia, that was designated a “Bicentennial Farm” in 1988 with emphasis on beef cattle production and Holstein heifer calves as dairy herd replacements. Warren was the sixth-generation farm owner. A long time ago, as a third grader in a city school, Warren’s teacher asked the class, “what do you want to be when you grow up?” Warren’s answer then without a moment’s hesitation was, “A Farmer!”, and the rest was history; and

Whereas, Richard “Warren” Ellison, age 94, of “Hans Creek”, Greenville, West Virginia, passed away on Tuesday, March 12, 2019 at Springfield Center at Lindsie, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army CPL Richard “Warren” Ellison and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 32-025/00-005.38 (32A098), locally known as Hans Creek Bridge, carrying CR 25 over Hans Creek in Monroe county the “U.S. Army CPL Richard ‘Warren’ Ellison Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army CPL Richard ‘Warren’ Ellison Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Resolutions Introduced

Delegates Caputo, Anderson, Angelucci, Atkinson, Azinger, Barnhart, Barrett, Bartlett, Bates, Boggs, N. Brown, S. Brown, Butler, Byrd, Cadle, Campbell, Canestraro, Capito, Cooper, Criss, Dean, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Graves, Hanna, Hansen, Hanshaw (Mr. Speaker), Hardy, Hartman, Hicks, Higginbotham, Hill, Hornbuckle, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Lavender-Bowe, Linville, Little, Longstreth, Lovejoy, C. Martin, P. Martin, Maynard, McGeehan, Miley, Miller, Pack, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Skaff, Sponaugle, Staggers, Summers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Westfall, Williams, Worrell and Zukoff offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 18 - “Expressing the appreciation of the House of Delegates to Senator Joe Manchin for leading the effort to secure pensions and healthcare for nearly 100,000 coal miners and their families; and extending that appreciation to Senator Shelley Moore

Capito and Representative David McKinley for their leadership in passing the 2019 Bipartisan American Miners Act.”

Whereas, Senator Joe Manchin has made these pensions and benefits a priority for the past five years, introducing the original Miners Protection Act on July 7, 2015; and

Whereas, Representative Alex Mooney and Representative Carol Miller have also supported this cause; and

Whereas, Coal miners from all across West Virginia and other coal mining states lobbied Congress, asking our government to keep their promise of “cradle to grave” benefits to coal miners; and

Whereas, The Bipartisan American Miners Act keeps the promise that the United States’ government made to our miners and their families back in 1946; and

Whereas, 25,000 West Virginian retired coal miners and their families were saved from losing their pensions and health care benefits with this bill’s passage; and

Whereas, Current bankruptcy laws allow pension plans to be treated as unsecured creditors, meaning our coal miners’ benefits are at the back of the line to be paid out in terms of debt when West Virginia mines are forced to close; and

Whereas, Chronic underfunding, lax government oversight, and serial bankruptcies have left pension funds in critical condition, despite the fact that coal miners have spent their working years contributing to those pension funds in anticipation they’ll have access to those funds when they retire; and

Whereas, The House of Delegates stands firmly being our coal miners, whose hard and dangerous work has kept the lights on for millions of United States’ citizens over the past century; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby expresses its appreciation to the entire Federal Delegation for their votes to protect the

hardworking coal miners of West Virginia and their families; and, be it,

Further Resolved, That the Clerk of the House forward a copy of this resolution to Senator Joe Manchin, Senator Shelley Moore Capito, Representative David McKinley, Representative Alex Mooney, and Representative Carol Miller.

And,

Delegates Dean, Anderson, Angelucci, Barrett, Boggs, N. Brown, Canestraro, Caputo, Cooper, Diserio, Estep-Burton, Evans, Hansen, Hartman, Lavender-Bowe, Longstreth, Lovejoy, C. Martin, P. Martin, Maynard, Paynter, Pethtel, Pyles, Rodighiero, Rohrbach, Rowe, Skaff, Sponaugle, Staggers, Steele, Storch, Summers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Toney, Walker, Worrell and Zukoff offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 140 - "Urging the Congress of the United States to pass the RECLAIM Act, which would assist communities negatively impacted by changes to the country's energy industry."

Whereas, The number of coal mining jobs in this country has fallen over 90 percent since the coal mining industry's peak. This number is likely to decrease further as the nature of the United States' energy production continues to evolve. Many communities in West Virginia have lost coal mining jobs and have struggled to recover from the economic turmoil caused by mine closures; and

Whereas, Reclamation of the many abandoned coal mines will provide long-term economic opportunities, including in areas such as energy, industry, and infrastructure development. Numerous former mining communities throughout the nation have successfully utilized reclaimed mines for substantial, long-term, economic benefits; and

Whereas, If left alone, abandoned coal mines will continue to negatively impact the environment, including contaminating water resources; and

Whereas, The Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More Act of 2017 (“RECLAIM Act”) would distribute an estimates \$200 million dollars in West Virginia over five years for mine reclamation and bring immediate and necessary relief to communities that have been devastated by the decline of the coal industry; and

Whereas, The RECLAIM Act would not raise fees or taxes on any individual or business, but would only distribute existing federal funds; and

Whereas, The members of the West Virginia Legislature find that the United States has an obligation to assist communities negatively impacted by changes to the country’s energy industry; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature urges the Congress of the United States to pass the RECLAIM Act, which would assist communities negatively impacted by changes to the country’s energy industry; and, be it

Further Resolved, That the Clerk of the House of Representatives transmit certified copies of this resolution to the Speaker and Clerk of the United States House of Representatives, the President *Pro Tempore*, and Secretary of the United States Senate, and to each member of West Virginia’s congressional delegation.

Motions

Delegate Hornbuckle moved, under the provisions of House Rule 82, to discharge **S. B. 850**, Prohibiting racial discrimination based on certain hair textures and hairstyles, from the Committee on the Judiciary.

Delegate Summers moved that the motion to discharge be laid upon the table.

On this question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 491**), and there were—yeas 55, nays 42, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Azinger, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Longstreth, McGeehan and Waxman.

So, a majority of the members present and voting having voted in the affirmative, the motion to discharge was laid upon the table.

Bills Introduced

On motion for leave, a bill was introduced, read by its title, and referred as follows:

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

H. B. 4979 - “A Bill expiring funds to the balance of the Department of Commerce, West Virginia Development Office, Marketing and Communications Operating Fund, fund 3002, fiscal year 2020, organization 0307, in the amount of \$222,563, from the Department of Commerce, West Virginia Development Office, Synthetic Fuel – Producing County Fund, fund 3165, fiscal year 2020, organization 0307, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020”; to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 492**), and there were—yeas 57, nays 41, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: McGeehan and Waxman.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 136) passed.

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

Com. Sub. for S. B. 136 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-28-1, §47-28-2, §47-28-3, §47-28-4, and §47-28-5, all relating to prohibiting certain deceptive legal advertising practices; defining terms; setting forth prohibited legal advertising practices; requiring disclosures and warnings pertaining to prescription drugs and medical devices; providing that engaging in prohibited legal advertising practices or failure to provide required disclosures and warnings constitute unfair and deceptive acts under the West Virginia Consumer and Credit Protection Act; prohibiting the use or disclosure of protected health information for solicitation of legal services; providing that the use or disclosure of protected health information constitutes a violation of West Virginia health privacy laws or the West Virginia Consumer and Credit Protection Act; providing criminal penalties for unauthorized use or disclosure of protected health information; and clarifying that the West Virginia Supreme Court of Appeals retains authority to regulate the practice of law.”

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

Com. Sub. for S. B. 150, Budget Bill; on third reading, coming up in regular order, with amendments pending and the general right to amend, was reported by the Clerk.

Delegate Householder moved to amend the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

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 2021.

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 2021” shall mean the period from July 1, 2020,
10 through June 30, 2021.

11 “General revenue fund” shall mean the general operating fund
12 of the state and includes all moneys received or collected by the
13 state except as provided in W.Va. Code §12-2-2 or as otherwise
14 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 shall
22 be reduced automatically by the amount of the deficiency in the
23 collections. If the amount collected exceeds the amount designated
24 “from collections,” the excess shall be set aside in a special surplus
25 fund and may be expended for the purpose of the spending unit as
26 provided by Article 2, Chapter 11B of the Code.

1 **Sec. 3. Classification of appropriations.** — An appropriation
2 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” shall
8 include “annual increment” for “eligible employees” and shall be
9 disbursed only in accordance with Article 5, Chapter 5 of the Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

98 “buildings” to other appropriations within the same account and no
99 funds from other appropriations shall be transferred to the
100 “personal services and employee benefits” or the “unclassified”
101 appropriation: *And provided further*, That no authority exists
102 hereunder to transfer funds into appropriations to which no funds
103 are legislatively appropriated: *And provided further*, That if the
104 Legislature consolidates, reorganizes or terminates agencies,
105 boards or functions, within any fiscal year the secretary or other
106 appropriate agency head, or in the case of the termination of a
107 spending unit of the state, the Director of the State Budget Office,
108 in the absence of general law providing otherwise, may transfer the
109 funds formerly appropriated to such agency, board or function,
110 allocating items of appropriation as may be necessary if only part
111 of the item may be allocated, in order to implement such
112 consolidation, reorganization or termination. No funds may be
113 transferred from a Special Revenue Account, dedicated account,
114 capital expenditure account or any other account or fund
115 specifically exempted by the Legislature from transfer, except that
116 the use of the appropriations from the State Road Fund for the
117 office of the Secretary of the Department of Transportation is not
118 a use other than the purpose for which such funds were dedicated
119 and is permitted.

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

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1 **Section 1. Appropriations from general revenue.** – From the
 2 State Fund, General Revenue, there are hereby appropriated
 3 conditionally upon the fulfillment of the provisions set forth in
 4 Article 2, Chapter 11B the following amounts, as itemized, for
 5 expenditure during the fiscal year 2021.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2021 Org 2100

	Appro- priation	General Revenue Fund
1 Compensation of Members (R).....	00300	\$ 1,010,000
2 Compensation and Per Diem of Officers 3 and Employees (R)	00500	4,011,332
4 Current Expenses and 5 Contingent Fund (R)	02100	276,392
6 Repairs and Alterations (R)	06400	50,000
7 Computer Supplies (R)	10100	20,000
8 Computer Systems (R).....	10200	60,000
9 Printing Blue Book (R)	10300	125,000
10 Expenses of Members (R).....	39900	370,000
11 BRIM Premium (R)	91300	<u>29,482</u>
12 Total.....		\$ 5,952,206

13 The appropriations for the Senate for the fiscal year 2020 are
 14 to remain in full force and effect and are hereby reappropriated to
 15 June 30, 2021. Any balances so reappropriated may be transferred
 16 and credited to the fiscal year 2020 accounts.

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

20 The Clerk of the Senate, with the approval of the President, is
 21 authorized to draw his or her requisitions upon the Auditor, payable
 22 out of the Current Expenses and Contingent Fund of the Senate, for

23 any bills for supplies and services that may have been incurred by
24 the Senate and not included in the appropriation bill, for supplies
25 and services incurred in preparation for the opening, the conduct of
26 the business and after adjournment of any regular or extraordinary
27 session, and for the necessary operation of the Senate offices, the
28 requisitions for which are to be accompanied by bills to be filed
29 with the Auditor.

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

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

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

56 Included in the above appropriation for Senate (fund 0165,
57 appropriation 02100), an amount not less than \$5,000 is to be used

58 for the West Virginia Academy of Family Physicians - Doc of the
59 Day Program.

2 - House of Delegates

Fund 0170 FY 2021 Org 2200

1	Compensation of Members (R).....00300	\$	3,000,000
2	Compensation and Per Diem of Officers		
3	and Employees (R)00500		575,000
4	Current Expenses and		
5	Contingent Fund (R).....02100		4,399,031
6	Expenses of Members (R).....39900		1,350,000
7	BRIM Premium (R)91300		<u>80,000</u>
8	Total.....	\$	9,404,031

9 The appropriations for the House of Delegates for the fiscal
10 year 2020 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2021. Any balances so reappropriated
12 may be transferred and credited to the fiscal year 2020 accounts.

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

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

27 The Speaker of the House of Delegates shall have authority to
28 employ such staff personnel during and between sessions of the
29 Legislature as shall be needed, in addition to personnel designated
30 in the House resolution, and the compensation of all personnel shall

31 be as fixed in such House resolution for the session, or fixed by the
 32 Speaker during and between sessions of the Legislature,
 33 notwithstanding such House resolution. The Clerk of the House of
 34 Delegates is hereby authorized to draw requisitions upon the
 35 Auditor for such services, payable out of the appropriation for the
 36 Compensation and Per Diem of Officers and Employees or Current
 37 Expenses and Contingent Fund of the House of Delegates.

38 For duties imposed by law and by the House of Delegates,
 39 including salary allowed by law as keeper of the rolls, the Clerk of
 40 the House of Delegates shall be paid a monthly salary as provided
 41 in the House resolution, unless increased between sessions under
 42 the authority of the Speaker and payable out of the appropriation
 43 for Compensation and Per Diem of Officers and Employees or
 44 Current Expenses and Contingent Fund of the House of Delegates.

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

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2021 Org 2300

1	Joint Committee on		
2	Government and Finance (R).....	10400	\$ 6,725,138
3	Legislative Printing (R).....	10500	260,000
4	Legislative Rule-Making		
5	Review Committee (R).....	10600	147,250
6	Legislative Computer System (R).....	10700	1,447,500
7	Legislative Fees & Dues (R).....	10701	600,000
8	Office of Regulatory and		
9	Fiscal Affairs	#####	761,440
10	BRIM Premium (R)	91300	<u>60,569</u>
11	Total.....		\$ 10,001,897

12 The appropriations for the Joint Expenses for the fiscal year
 13 2020 are to remain in full force and effect and are hereby

14 reappropriated to June 30, 2021. Any balances reappropriated may
15 be transferred and credited to the fiscal year 2020 accounts.

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

JUDICIAL

4 - Supreme Court –

General Judicial

Fund 0180 FY 2021 Org 2400

1	Personal Services and		
2	Employee Benefits (R)	00100	\$ 111,440,000
3	Military Service		
4	Members Court (R).....	09002	300,000
5	Current Expenses (R).....	13000	19,911,000
6	Repairs and Alterations (R)	06400	40,000
7	Equipment (R).....	07000	1,950,000
8	Judges’ Retirement System (R)	11000	838,000
9	Buildings (R).....	25800	10,000
10	Other Assets (R).....	69000	200,000
11	BRIM Premium (R)	91300	<u>810,000</u>
12	Total.....		\$ 135,499,000

13 The appropriations to the Supreme Court of Appeals for the
14 fiscal years 2018, 2019 and 2020 are to remain in full force and
15 effect and are hereby reappropriated to June 30, 2021. Any
16 balances so reappropriated may be transferred and credited to the
17 fiscal year 2021 accounts.

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

22 The appropriation for the Judges' Retirement System (fund
 23 0180, appropriation 11000) is to be transferred to the Consolidated
 24 Public Retirement Board, in accordance with the law relating
 25 thereto, upon requisition of the Administrative Director of the
 26 Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,250,758
3	Current Expenses (R).....	13000	800,000
4	Repairs and Alterations.....	06400	25,000
5	National Governors Association.....	12300	60,700
6	Herbert Henderson Office		
7	of Minority Affairs	13400	396,726
8	Community Food Program	18500	0
9	Office of Resiliency	18600	596,157
10	BRIM Premium.....	91300	<u>183,645</u>
11	Total.....		\$ 5,312,986

12 Any unexpended balances remaining in the appropriations for
 13 Unclassified (fund 0101, appropriation 09900), and Current
 14 Expenses (fund 0101, appropriation 13000) at the close of the fiscal
 15 year 2020 are hereby reappropriated for expenditure during the
 16 fiscal year 2021.

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

6 - Governor's Office -

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2021 Org 0100

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 381,293
3	Current Expenses (R).....	13000	183,158
4	Repairs and Alterations.....	06400	<u>5,000</u>
5	Total.....		\$ 569,451

6 Any unexpended balance remaining in the appropriation for
 7 Current Expenses (fund 0102, appropriation 13000) at the close of
 8 the fiscal year 2020 is hereby reappropriated for expenditure during
 9 the fiscal year 2021.

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 2021 Org 0100

1	Milton Flood Wall (R)	75701	\$ 6,000,000
---	-----------------------------	-------	--------------

2 Any unexpended balances remaining in the appropriations for
 3 Business and Economic Development Stimulus – Surplus (fund
 4 0105, appropriation 08400), Civil Contingent Fund – Total (fund
 5 0105, appropriation 11400), 2012 Natural Disasters – Surplus
 6 (fund 0105, appropriation 13500), Civil Contingent Fund – Total –
 7 Surplus (fund 0105, appropriation 23800), Civil Contingent Fund
 8 – Surplus (fund 0105, appropriation 26300), Business and
 9 Economic Development Stimulus (fund 0105, appropriation
 10 58600), Civil Contingent Fund (fund 0105, appropriation 61400),
 11 Milton Flood Wall (fund 0105, appropriation 75701), and Natural
 12 Disasters – Surplus (fund 0105, appropriation 76400) at the close
 13 of the fiscal year 2020 are hereby reappropriated for expenditure
 14 during the fiscal year 2021.

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

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

8 - Auditor's Office -

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2021 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,797,589
3	Current Expenses (R).....	13000	13,429
4	BRIM Premium.....	91300	<u>12,077</u>
5	Total.....		\$ 2,823,095

6 Any unexpended balance remaining in the appropriation for
 7 Current Expenses (fund 0116, appropriation 13000) at the close of
 8 the fiscal year 2020 is hereby reappropriated for expenditure during
 9 the fiscal year 2021.

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

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2021 Org 1300

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,570,242
3	Unclassified.....	09900	31,463
4	Current Expenses (R).....	13000	772,684

5	Abandoned Property Program.....	11800	41,794
6	Other Assets.....	69000	10,000
7	ABLE Program	69201	150,000
8	BRIM Premium.....	91300	<u>59,169</u>
9	Total.....		\$ 3,635,352

10 Any unexpended balances remaining in the appropriation for
 11 Current Expenses (fund 0126, appropriation 13000) at the close of
 12 the fiscal year 2020 are hereby reappropriated for expenditure
 13 during the fiscal year 2021.

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

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 6,298,229
3	Animal Identification Program	03900	131,942
4	State Farm Museum	05500	87,759
5	Current Expenses (R).....	13000	848,115
6	Gypsy Moth Program (R)	11900	1,003,440
7	WV Farmers Market	12801	150,467
8	Black Fly Control.....	13700	453,698
9	HEMP Program.....	13701	350,000
10	Donated Foods Program	36300	45,000
11	Veterans to Agriculture		
12	Program (R)	36301	255,624
13	Predator Control (R)	47000	176,400
14	Bee Research.....	69100	70,634
15	Microbiology Program.....	78500	99,828
16	Moorefield Agriculture Center.....	78600	975,284
17	Chesapeake Bay Watershed.....	83000	112,427
18	Livestock Care Standards Board.....	84300	8,820
19	BRIM Premium.....	91300	138,905

20	State FFA-FHA Camp		
21	and Conference Center	94101	638,554
22	Threat Preparedness	94200	73,122
23	WV Food Banks.....	96900	426,000
24	Senior's Farmers' Market		
25	Nutrition Coupon Program	97000	<u>55,835</u>
26	Total.....		\$ 12,400,083

27 Any unexpended balances remaining in the appropriations for
 28 Gypsy Moth Program (fund 0131, appropriation 11900), Current
 29 Expenses (fund 0131, appropriation 13000), Veterans to
 30 Agriculture Program (fund 0131, appropriation 36301), Predator
 31 Control (fund 0131, appropriation 47000), and Agricultural
 32 Disaster and Mitigation Needs – Surplus (fund 0131, appropriation
 33 85000) at the close of the fiscal year 2020 are hereby
 34 reappropriated for expenditure during the fiscal year 2021.

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

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

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

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

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 794,191
3	Unclassified.....	09900	77,059
4	Current Expenses (R).....	13000	317,848
5	Soil Conservation Projects (R).....	12000	9,799,709
6	BRIM Premium.....	91300	<u>34,428</u>
7	Total.....		\$ 11,023,235

8 Any unexpended balances remaining in the appropriations for
 9 Soil Conservation Projects (fund 0132, appropriation 12000), and
 10 Current Expenses (fund 0132, appropriation 13000) at the close of
 11 the fiscal year 2020 are hereby reappropriated for expenditure
 12 during the fiscal year 2021.

12 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 668,030
3	Unclassified.....	09900	7,090
4	Current Expenses	13000	<u>82,605</u>
5	Total.....		\$ 757,725

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

13 - Department of Agriculture –

Agricultural Awards Fund

(WV Code Chapter 19)

Fund 0136 FY 2021 Org 1400

1	Programs and Awards for		
2	4-H Clubs and FFA/FHA.....	57700	\$ 15,000

3	Commissioner's Awards		
4	and 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 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 99,547
3	Unclassified.....	09900	<u>950</u>
4	Total.....		\$ 100,497

15 - Attorney General

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

Fund 0150 FY 2021 Org 1500

1	Personal Services and		
2	Employee Benefits (R)	00100	\$ 2,818,788
3	Unclassified (R)	09900	24,428
4	Current Expenses (R).....	13000	762,097
5	Repairs and Alterations.....	06400	1,000
6	Equipment	07000	1,000
7	Criminal Convictions and		
8	Habeas Corpus Appeals (R).....	26000	946,078
9	Better Government Bureau	74000	279,412
10	BRIM Premium.....	91300	<u>120,654</u>
11	Total.....		\$ 4,953,457

12 Any unexpended balances remaining in the above
 13 appropriations for Personal Services and Employee Benefits (fund
 14 0150, appropriation 00100), Unclassified (fund 0150,
 15 appropriation 09900), Current Expenses (fund 0150, appropriation
 16 13000), Criminal Convictions and Habeas Corpus Appeals (fund
 17 0150, appropriation 26000), and Agency Client Revolving

18 Liquidity Pool (fund 0150, appropriation 36200) at the close of the
 19 fiscal year 2020 are hereby reappropriated for expenditure during
 20 the fiscal year 2021.

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

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

16 - Secretary of State

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2021 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 118,794
3	Unclassified (R)	09900	8,352
4	Current Expenses (R).....	13000	795,948
5	BRIM Premium.....	91300	<u>34,500</u>
6	Total.....		\$ 957,594

7 Any unexpended balances remaining in the appropriations for
 8 Unclassified (fund 0155, appropriation 09900) and Current
 9 Expenses (fund 0155, appropriation 13000) at the close of the fiscal
 10 year 2020 are hereby reappropriated for expenditure during the
 11 fiscal year 2021.

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

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2021 Org 1601

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

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2021 Org 0201

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 606,584
3	Unclassified.....	09900	9,177
4	Current Expenses	13000	85,009
5	Repairs and Alterations.....	06400	100
6	Equipment.....	07000	1,000
7	Financial Advisor (R)	30400	27,546
8	Lease Rental Payments	51600	15,000,000
9	Design-Build Board	54000	4,000
10	Other Assets.....	69000	100
11	BRIM Premium.....	91300	<u>6,736</u>
12	Total.....		\$ 15,740,252

13 Any unexpended balance remaining in the appropriation for
 14 Financial Advisor (fund 0186, appropriation 30400) at the close of

15 the fiscal year 2020 is hereby reappropriated for expenditure during
16 the fiscal year 2021.

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

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2021 Org 0205

1 The Division of Highways, Division of Motor Vehicles, Public
2 Service Commission and other departments, bureaus, divisions, or
3 commissions operating from special revenue funds and/or federal
4 funds shall pay their proportionate share of the retirement costs for
5 their respective divisions. When specific appropriations are not
6 made, such payments may be made from the balances in the various
7 special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2021 Org 0209

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 64,696
3	Unclassified.....	09900	1,400
4	Current Expenses	13000	66,721
5	GAAP Project (R).....	12500	612,666
6	BRIM Premium.....	91300	<u>7,517</u>
7	Total.....		\$ 753,000

8 Any unexpended balance remaining in the appropriation for
9 GAAP Project (fund 0203, appropriation 12500) at the close of the
10 fiscal year 2020 is hereby reappropriated for expenditure during the
11 fiscal year 2021.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2021 Org 0211

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,722,499
3	Unclassified.....	09900	20,000
4	Current Expenses	13000	1,148,349
5	Repairs and Alterations.....	06400	500
6	Equipment.....	07000	5,000
7	Fire Service Fee	12600	14,000
8	Preservation and Maintenance of		
9	Statues and Monuments		
10	on Capitol Grounds.....	37100	68,000
11	Capital Outlay, Repairs		
12	and Equipment (R).....	58900	23,660,888
13	BRIM Premium.....	91300	<u>129,983</u>
14	Total.....		\$ 27,769,219

15 Any unexpended balances remaining in the above
16 appropriations for Buildings (fund 0230, appropriation 25800),
17 Capital Outlay, Repairs and Equipment (fund 0230, appropriation
18 58900), Capital Outlay, Repairs and Equipment – Surplus (fund
19 0230, appropriation 67700), and Land (fund 0230, appropriation
20 73000) at the close of the fiscal year 2020 are hereby
21 reappropriated for expenditure during the fiscal year 2021.

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

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

22 - *Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2021 Org 0213

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,055,926
3	Unclassified.....	09900	144
4	Current Expenses	13000	1,285
5	Repairs and Alterations.....	06400	200
6	BRIM Premium.....	91300	<u>6,922</u>
7	Total.....		\$ 1,064,477

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

23 - *Travel Management*

(WV Code Chapter 5A)

Fund 0615 FY 2021 Org 0215

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 802,363
3	Unclassified.....	09900	12,032
4	Current Expenses	13000	440,247
5	Repairs and Alterations.....	06400	1,000
6	Equipment	07000	5,000
7	Buildings (R).....	25800	100
8	Other Assets.....	69000	<u>100</u>
9	Total.....		\$ 1,260,842

10 Any unexpended balance remaining in the appropriation for
11 Buildings (fund 0615, appropriation 25800) at the close of the
12 fiscal year 2020 is hereby reappropriated for expenditure during the
13 fiscal year 2021.

24 - *Commission on Uniform State Laws*

(WV Code Chapter 29)

Fund 0214 FY 2021 Org 0217

1	Current Expenses	13000	\$	45,550
2	To pay expenses for members of the commission on uniform			
3	state laws.			

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2021 Org 0219

1	Personal Services and			
2	Employee Benefits.....	00100	\$	969,627
3	Unclassified.....	09900		1,000
4	Current Expenses	13000		145,295
5	Equipment.....	07000		50
6	BRIM Premium.....	91300		8,740
7	Total.....		\$	1,124,712

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2021 Org 0220

1	Personal Services and			
2	Employee Benefits.....	00100	\$	606,969
3	Unclassified.....	09900		2,200
4	Current Expenses	13000		104,501
5	Repairs and Alterations.....	06400		500
6	Other Assets.....	69000		100
7	BRIM Premium.....	91300		5,574
8	Total.....		\$	719,844

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2021 Org 0221

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,711,081

3	Unclassified.....	09900		314,700
4	Current Expenses	13000		12,740
5	Public Defender Corporations.....	35200		19,538,435
6	Appointed Counsel Fees (R).....	78800		12,898,115
7	BRIM Premium.....	91300		<u>10,575</u>
8	Total.....		\$	34,485,646

9 Any unexpended balance remaining in the above appropriation
 10 for Appointed Counsel Fees (fund 0226, appropriation 78800) at
 11 the close of the fiscal year 2020 is hereby reappropriated for
 12 expenditure during the fiscal year 2021.

13 The director shall have the authority to transfer funds from the
 14 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 2021 Org 0224

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

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2021 Org 0225

1	PEIA Subsidy.....	80100	\$	21,000,000
---	-------------------	-------	----	------------

2 The Division of Highways, Division of Motor Vehicles, Public
 3 Service Commission and other departments, bureaus, divisions, or
 4 commissions operating from special revenue funds and/or federal

5 funds shall pay their proportionate share of the public employees
6 health insurance cost for their respective divisions.

7 The above appropriation for PEIA Subsidy (fund 0200,
8 appropriation 80100) may be transferred to a special revenue fund
9 and shall be utilized by the West Virginia Public Employees
10 Insurance Agency for the purposes of offsetting benefit changes to
11 offset the aggregate premium cost-sharing percentage
12 requirements between employers and employees. Such amount
13 shall not be included in the calculation of the plan year aggregate
14 premium cost-sharing percentages between employers and
15 employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2021 Org 0228

1	Forensic Medical Examinations (R) 68300	\$	141,579
2	Federal Funds/Grant Match (R)..... 74900		<u>105,074</u>
3	Total.....	\$	246,653

4 Any unexpended balances remaining in the appropriations for
5 Forensic Medical Examinations (fund 0557, appropriation 68300)
6 and Federal Funds/Grant Match (fund 0557, appropriation 74900)
7 at the close of the fiscal year 2020 are hereby reappropriated for
8 expenditure during the fiscal year 2021.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2021 Org 0233

1	Personal Services and		
2	Employee Benefits.....00100	\$	681,101
3	Unclassified.....09900		1,000
4	Current Expenses 13000		137,381
5	Repairs and Alterations..... 06400		100
6	Equipment..... 07000		2,500

7	BRIM Premium.....	91300		9,784
8	Total.....		\$	831,866

DEPARTMENT OF COMMERCE

32 - West Virginia Tourism Office

(WV Code Chapter 5B)

Fund 0246 FY 2021 Org 0304

1	Tourism – Brand Promotion (R)	61803		\$ 5,000,000
2	Tourism – Public Relations (R)	61804		1,500,000
3	Tourism – Events and			
4	Sponsorships (R).....	61805		500,000
5	Tourism – Industry			
6	Development (R)	61806		500,000
7	State Parks and Recreation			
8	Advertising (R)	61900		1,500,000
9	Total.....		\$	9,000,000

10 Any unexpended balances remaining in the appropriations for
 11 Tourism – Brand Promotion (fund 0246, appropriation 61803),
 12 Tourism – Public Relations (fund 0246, appropriation 61804),
 13 Tourism – Events and Sponsorships (fund 0246, appropriation
 14 61805), Tourism – Industry Development (fund 0246,
 15 appropriation 61806), and State Parks and Recreation Advertising
 16 (fund 0246, appropriation 61900) at the close of the fiscal year
 17 2020 are hereby reappropriated for expenditure during the fiscal
 18 year 2021.

19 The Executive Director of the West Virginia Tourism Office,
 20 with approval from the Secretary of Commerce, shall have the
 21 authority to transfer between the above items of appropriation.

33 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2021 Org 0305

1 Personal Services and

2	Employee Benefits.....	00100	\$	2,881,455
3	Unclassified.....	09900		21,435
4	Current Expenses	13000		338,953
5	Repairs and Alterations.....	06400		80,000
6	Equipment (R).....	07000		2,061
7	BRIM Premium.....	91300		98,754
8	Total.....		\$	3,422,658

9 Any unexpended balance remaining in the appropriation for
 10 Equipment (fund 0250, appropriation 07000) at the close of the
 11 fiscal year 2020 is hereby reappropriated for expenditure during the
 12 fiscal year 2021.

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 2021 Org 0306

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,678,448
3	Unclassified.....	09900		27,678
4	Current Expenses	13000		51,524
5	Repairs and Alterations.....	06400		968
6	Mineral Mapping System (R)	20700		1,134,143
7	BRIM Premium.....	91300		24,486
8	Total.....		\$	2,917,247

9 Any unexpended balance remaining in the appropriation for
 10 Mineral Mapping System (fund 0253, appropriation 20700) at the
 11 close of the fiscal year 2020 is hereby reappropriated for
 12 expenditure during the fiscal year 2021.

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

35 - *West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 4,500,420
3	Unclassified.....	09900	108,055
4	Current Expenses	13000	5,615,277
5	National Youth Science Camp.....	13200	241,570
6	Local Economic Development		
7	Partnerships (R)	13300	1,250,000
8	ARC Assessment	13600	152,585
9	Guaranteed Work Force Grant (R).....	24200	976,579
10	Mainstreet Program.....	79400	167,467
11	Local Economic Development		
12	Assistance (R).....	18900	750,000
13	BRIM Premium.....	91300	3,157
14	Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
15	Total.....		\$ 13,963,525

16 Any unexpended balances remaining in the appropriations for
17 Sales and Marketing Enhancement – Surplus (fund 0256,
18 appropriation 05099), Unclassified – Surplus (fund 0256,
19 appropriation 09700), Partnership Grants (fund 0256,
20 appropriation 13100), Local Economic Development Partnerships
21 (fund 0256, appropriation 13300), Guaranteed Work Force Grant
22 (fund 0256, appropriation 24200), Industrial Park Assistance (fund
23 0256, appropriation 48000), and Local Economic Development
24 Assistance (fund 0256, appropriation 81900) at the close of the
25 fiscal year 2020 are hereby reappropriated for expenditure during
26 the fiscal year 2021.

27 From the above appropriation for Current Expenses (fund 0256,
28 appropriation 13000), \$1,800,000 shall be used for the Eastern
29 West Virginia Regional Airport and \$50,000 shall be used for the
30 Western Potomac Economic Partnership.

31 The above appropriation to Local Economic Development
 32 Partnerships (fund 0256, appropriation 13300) shall be used by the
 33 West Virginia Development Office for the award of funding
 34 assistance to county and regional economic development
 35 corporations or authorities participating in the Certified
 36 Development Community Program developed under the provisions
 37 of W.Va. Code §5B-2-14. The West Virginia Development Office
 38 shall award the funding assistance through a matching grant
 39 program, based upon a formula whereby funding assistance may
 40 not exceed \$34,000 per county served by an economic
 41 development or redevelopment corporation or authority.

36 - Division of Labor

(WV Code Chapters 21, and 47)

Fund 0260 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,564,676
3	Current Expenses	13000	227,000
4	Repairs and Alterations.....	06400	28,000
5	Equipment.....	07000	15,000
6	BRIM Premium.....	91300	<u>8,500</u>
7	Total.....		\$ 1,843,176

37 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2021 Org 0310

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 16,956,925
3	Unclassified.....	09900	184,711
4	Current Expenses	13000	196,302
5	Repairs and Alterations.....	06400	100
6	Equipment.....	07000	100
7	Buildings (R).....	25800	100
8	Capital Outlay – Parks (R).....	28800	3,000,000
9	Litter Control Conservation		
10	Officers	56400	146,986

11	Upper Mud River Flood Control.....	65400	164,791
12	Other Assets.....	69000	100
13	Land (R).....	73000	100
14	Law Enforcement.....	80600	2,552,994
15	BRIM Premium.....	91300	<u>45,141</u>
16	Total.....		\$ 23,248,350

17 Any unexpended balances remaining in the appropriations for
 18 Buildings (fund 0265, appropriation 25800), Capital Outlay –
 19 Parks (fund 0265, appropriation 28800), Land (fund 0265,
 20 appropriation 73000), and State Park Improvements – Surplus
 21 (fund 0265, appropriation 76300) at the close of the fiscal year
 22 2020 are hereby reappropriated for expenditure during the fiscal
 23 year 2021.

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

38 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2021 Org 0314

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 9,450,243
3	Unclassified.....	09900	111,016
4	Current Expenses	13000	1,396,141
5	Coal Dust and Rock		
6	Dust Sampling	27000	487,752
7	BRIM Premium.....	91300	<u>80,668</u>
8	Total.....		\$ 11,525,820

9 Included in the above appropriation for Current Expenses (fund
 10 0277, appropriation 13000) is \$500,000 to be used for coal mine
 11 training activities at an established mine training facility in
 12 southern West Virginia.

39 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2021 Org 0319

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 233,981
3	Unclassified.....	09900	3,480
4	Current Expenses	13000	<u>118,138</u>
5	Total.....		\$ 355,599

6 Included in the above appropriation for Current Expenses (fund
7 0280, appropriation 13000) up to \$29,000 shall be used for the Coal
8 Mine Safety and Technical Review Committee.

40 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2021 Org 0323

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 51,433
3	Unclassified.....	09900	593
4	Current Expenses	13000	<u>7,337</u>
5	Total.....		\$ 59,363

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

(WV Code Chapter 19)

Fund 0606 FY 2021 Org 0327

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 588,872
3	Unclassified.....	09900	1,490
4	Current Expenses	13000	17,099
5	Directed Transfer	70000	<u>500,000</u>
6	Total.....		\$ 1,107,461

7 The above appropriation for Directed Transfer (fund 0606,
8 appropriation 70000) shall be transferred to the Broadband
9 Enhancement Fund (fund 3013).

42 - Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2021 Org 0328

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 198,299
3	Unclassified.....	09900	12,395
4	Current Expenses	13000	1,029,679
5	BRIM Premium.....	91300	<u>3,894</u>
6	Total.....		\$ 1,244,267

7 From the above appropriation for Current Expenses (fund 0612,
8 appropriation 13000) \$558,247 is for West Virginia University and
9 \$308,247 is for Southern West Virginia Community and Technical
10 College for the Mine Training and Energy Technologies Academy.

43 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2021 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 11,459,977
3	Independent Living Services.....	00900	429,418
4	Current Expenses	13000	558,815
5	Workshop Development	16300	1,817,427
6	Supported Employment		
7	Extended Services.....	20600	77,960
8	Ron Yost Personal Assistance Fund	40700	333,828
9	Employment Attendant		
10	Care Program	59800	131,575
11	BRIM Premium.....	91300	<u>77,464</u>

12 Total..... \$ 14,886,464

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

DEPARTMENT OF EDUCATION

44 - State Board of Education –

School Lunch Program

(WV Code Chapters 18, and 18A)

Fund 0303 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....00100	\$	348,042
3	Current Expenses13000		<u>2,118,865</u>
4	Total.....	\$	2,466,907

45 - State Board of Education –

State Department of Education

(WV Code Chapters 18, and 18A)

Fund 0313 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....00100	\$	4,598,523
3	Teachers' Retirement		
4	Savings Realized.....09500		33,028,000
5	Unclassified (R)09900		420,000
6	Current Expenses (R).....13000		5,410,000
7	Center for Professional		
8	Development (R)11500		150,000
9	Increased Enrollment14000		5,090,000

10	Safe Schools.....	14300	4,704,544
11	Attendance Incentive Bonus	15001	2,056,717
12	National Teacher Certification (R)	16100	300,000
13	Jobs & Hope – Childhood		
14	Drug Prevention Education.....	21901	2,500,000
15	Allowance for County Transfer	26400	238,174
16	Technology Repair and		
17	Modernization.....	29800	951,003
18	HVAC Technicians.....	35500	516,791
19	Early Retirement		
20	Notification Incentive	36600	300,000
21	MATH Program.....	36800	336,532
22	Assessment Programs	39600	1,339,588
23	Benedum Professional		
24	Development Collaborative (R).....	42700	429,775
25	Governor’s Honors Academy (R).....	47800	1,059,270
26	21 st Century Fellows	50700	274,899
27	English as a Second Language.....	52800	96,000
28	Teacher Reimbursement	57300	297,188
29	Hospitality Training.....	60000	272,775
30	Hi-Y Youth in Government	61600	100,000
31	High Acuity Special Needs (R).....	63400	1,500,000
32	Foreign Student Education.....	63600	100,294
33	State Board of Education		
34	Administrative Costs	68400	277,403
35	IT Academy (R)	72100	500,000
36	Early Literacy Program.....	75600	5,705,624
37	School Based Truancy		
38	Prevention (R).....	78101	2,032,238
39	Mastery Based Education	78104	125,000
40	Communities in Schools (R).....	78103	4,900,000
41	21 st Century Learners (R).....	88600	1,756,470
42	BRIM Premium.....	91300	342,859
43	21 st Century Assessment and		
44	Professional Development.....	93100	2,006,978
45	21 st Century Technology		
46	Infrastructure Network		
47	Tools and Support.....	93300	7,636,586
48	Special Olympic Games.....	96600	25,000

49	Educational Program Allowance	99600	<u>566,250</u>
50	Total.....		\$ 91,944,481

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

53 From the above appropriation for Current Expenses (fund 0313,
54 appropriation 13000), \$2,000,000 shall be used for the Department
55 of Education Child Nutrition Program – Non-traditional Child
56 Hunger Solutions, \$750,000 shall be used for Local Education
57 Projects, and \$80,000 shall be used for creating a career exploration
58 school for students

59 Any unexpended balances remaining in the appropriations for
60 Unclassified (fund 0313, appropriation 09900), Current Expenses
61 (fund 0313, appropriation 13000), Center for Professional
62 Development (fund 0313, appropriation 11500), National Teacher
63 Certification (fund 0313, appropriation 16100), Benedum
64 Professional Development Collaborative (fund 0313, appropriation
65 42700), Governor’s Honors Academy (fund 0313, appropriation
66 47800), High Acuity Special Needs (fund 0313, appropriation
67 63400), IT Academy (fund 0313, appropriation 72100), School
68 Based Truancy Prevention (fund 0313, appropriation 78101),
69 Communities in Schools (fund 0313, appropriation 78103), and
70 21st Century Learners (fund 0313, appropriation 88600) at the close
71 of the fiscal year 2020 are hereby reappropriated for expenditure
72 during the fiscal year 2021.

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

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

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

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

85 From the above appropriation for Educational Program
86 Allowance (fund 0313, appropriation 99600), \$100,000 shall be
87 expended for Webster County Board of Education for Hacker
88 Valley; \$150,000 shall be for the Randolph County Board of
89 Education for Pickens School; \$100,000 shall be for the Preston
90 County Board of Education for the Aurora School; \$100,000 shall
91 be for the Fayette County Board of Education for Meadow Bridge;
92 \$50,000 shall be for Morgan County Board for Paw Paw Schools;
93 and \$66,250 is for Project Based Learning in STEM fields.

46 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18, and 18A)

Fund 0314 FY 2021 Org 0402

1	Special Education – Counties	15900	\$	7,271,757
2	Special Education – Institutions.....	16000		3,968,631
3	Education of Juveniles Held			
4	in Predispositional Juvenile			
5	Detention Centers	30200		657,858
6	Education of Institutionalized			
7	Juveniles and Adults (R).....	47200		<u>20,325,353</u>
8	Total.....		\$	32,223,599

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 2020 is hereby
12 reappropriated for expenditure during the fiscal year 2021.

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

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

(WV Code Chapters 18, and 18A)

Fund 0317 FY 2021 Org 0402

1	Other Current Expenses	02200	\$ 170,216,073
2	Advanced Placement.....	05300	734,729
3	Professional Educators.....	15100	897,576,715
4	Service Personnel.....	15200	301,789,240
5	Fixed Charges	15300	106,219,537
6	Transportation.....	15400	78,177,730
7	Professional Student		
8	Support Services	65500	62,148,699
9	Improved Instructional Programs	15600	51,851,736
10	21 st Century Strategic		
11	Technology Learning Growth.....	93600	26,198,236
12	Teacher and Leader Induction.....	93601	<u>5,233,355</u>
13	Basic Foundation Allowances.....		1,700,146,050
14	Less Local Share		(475,033,135)
15	Adjustments		<u>(2,716,826)</u>
16	Total Basic State Aid		1,222,396,089
17	Public Employees'		
18	Insurance Matching	01200	222,461,499
19	Teachers' Retirement System	01900	67,663,000
20	School Building Authority	45300	24,000,000
21	Retirement Systems –		
22	Unfunded Liability.....	77500	<u>323,576,000</u>
23	Total.....		\$ <u>1,860,096,588</u>

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

(WV Code Chapters 18, and 18A)

Fund 0390 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,339,713

3	Unclassified.....	09900	268,800
4	Current Expenses	13000	883,106
5	Wood Products – Forestry		
6	Vocational Program	14600	79,873
7	Albert Yanni Vocational Program	14700	132,123
8	Vocational Aid	14800	24,229,691
9	Adult Basic Education	14900	5,271,228
10	Jobs & Hope.....	14902	3,500,000
11	Program Modernization	30500	884,313
12	High School Equivalency		
13	Diploma Testing (R).....	72600	803,397
14	FFA Grant Awards.....	83900	11,496
15	Pre-Engineering Academy Program	84000	265,294
16	Total.....		\$ 37,669,034

17 Any unexpended balances remaining in the appropriations for
 18 Jim’s Dream (fund 0390, appropriation 14901) and High School
 19 Equivalency Diploma Testing (fund 0390, appropriation 72600) at
 20 the close of the fiscal year 2020 are hereby reappropriated for
 21 expenditure during the fiscal year 2021.

49 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18, and 18A)

Fund 0320 FY 2021 Org 0403

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 11,379,675
3	Unclassified.....	09900	110,000
4	Current Expenses	13000	2,250,696
5	Repairs and Alterations.....	06400	164,675
6	Equipment	07000	77,000
7	Buildings (R).....	25800	45,000
8	Capital Outlay and		
9	Maintenance (R)	75500	520,000
10	BRIM Premium.....	91300	130,842
11	Total.....		\$ 14,677,888

12 Any unexpended balances remaining in the appropriations for
 13 Buildings (fund 0320, appropriation 25800) and Capital Outlay and
 14 Maintenance (fund 0320, appropriation 75500) at the close of the
 15 fiscal year 2020 are hereby reappropriated for expenditure during
 16 the fiscal year 2021.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

50 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2021 Org 0432

1	Personal Services and	
2	Employee Benefits..... 00100	\$ 3,463,493
3	Current Expenses 13000	610,843
4	Repairs and Alterations..... 06400	1,000
5	Equipment..... 07000	1
6	Unclassified (R) 09900	28,483
7	WV Humanities Council..... 16800	250,000
8	Buildings (R)..... 25800	1
9	Other Assets..... 69000	1
10	Educational Enhancements 69500	573,500
11	Land (R)..... 73000	1
12	Culture and History Programming..... 73200	231,573
13	Capital Outlay and	
14	Maintenance (R) 75500	19,600
15	Historical Highway	
16	Marker Program..... 84400	57,548
17	BRIM Premium..... 91300	<u>39,337</u>
18	Total.....	\$ 5,275,381

19 Any unexpended balances remaining in the appropriations for
 20 Unclassified (fund 0293, appropriation 09900), Buildings (fund
 21 0293, appropriation 25800), Capital Outlay, Repairs and
 22 Equipment (fund 0293, appropriation 58900), Capital
 23 Improvements – Surplus (fund 0293, appropriation 66100), Capital
 24 Outlay, Repairs and Equipment – Surplus (fund 0293,
 25 appropriation 67700), Land (fund 0293, appropriation 73000), and

26 Capital Outlay and Maintenance (fund 0293, appropriation 75500)
 27 at the close of the fiscal year 2020 are hereby reappropriated for
 28 expenditure during the fiscal year 2021.

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

35 From the above appropriation for Educational Enhancements
 36 (fund 0293, appropriation 69500), \$500,000 shall be used for Save
 37 the Children and \$73,500 shall be used for the Clay Center.

51 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2021 Org 0433

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,314,744
3	Current Expenses	13000	139,624
4	Repairs and Alterations.....	06400	6,500
5	Services to Blind & Handicapped.....	18100	161,717
6	BRIM Premium.....	91300	<u>18,205</u>
7	Total.....		\$ 1,640,790

52 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2021 Org 0439

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,312,092
3	Current Expenses	13000	120,146
4	Mountain Stage	24900	300,000
5	Capital Outlay and		
6	Maintenance (R)	75500	50,000

7	BRIM Premium.....	91300		<u>48,453</u>
8	Total.....		\$	3,830,691

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

53 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2021 Org 0311

1	Personal Services and			
2	Employee Benefits.....	00100	\$	82,539
3	Current Expenses	13000		28,453
4	Repairs and Alterations.....	06400		800
5	Equipment	07000		500
6	Other Assets	69000		400
7	BRIM Premium.....	91300		<u>791</u>
8	Total.....		\$	113,483

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2021 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	4,207,200
3	Water Resources Protection			
4	and Management.....	06800		576,278
5	Current Expenses	13000		86,116
6	Repairs and Alterations.....	06400		1,500
7	Unclassified.....	09900		14,825
8	Dam Safety.....	60700		237,824
9	West Virginia Stream			
10	Partners Program	63700		77,396

11	Meth Lab Cleanup.....	65600		139,000
12	WV Contributions to			
13	River Commissions.....	77600		148,485
14	Office of Water Resources			
15	Non-Enforcement Activity	85500		<u>1,009,855</u>
16	Total.....		\$	6,498,479

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2021 Org 0325

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

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

56 - Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2021 Org 0501

1	Personal Services and			
2	Employee Benefits.....	00100	\$	384,638
3	Unclassified.....	09900		6,459
4	Current Expenses	13000		50,613
5	Commission for the Deaf			
6	and Hard of Hearing	70400		<u>225,534</u>
7	Total.....		\$	667,244

8 Any unexpended balance remaining in the appropriation for the
9 Women's Commission (fund 0400, appropriation 19100) at the

10 close of the fiscal year 2020 is hereby reappropriated for
 11 expenditure during the fiscal year 2021.

57 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 12,544,773
3	Chief Medical Examiner	04500	8,714,647
4	Unclassified.....	09900	671,795
5	Current Expenses	13000	4,588,459
6	State Aid for Local and Basic		
7	Public Health Services	18400	14,160,490
8	Safe Drinking Water Program (R)	18700	1,891,323
9	Women, Infants and Children	21000	38,621
10	Early Intervention	22300	8,134,060
11	Cancer Registry.....	22500	206,306
12	Office of Drug Control Policy (R)	35401	545,153
13	Statewide EMS Program		
14	Support (R)	38300	1,695,271
15	Office of Medical Cannabis (R).....	42001	1,459,989
16	Black Lung Clinics	46700	170,885
17	Vaccine for Children.....	55100	338,235
18	Tuberculosis Control.....	55300	329,256
19	Maternal and Child Health		
20	Clinics, Clinicians Medical		
21	Contracts and Fees (R).....	57500	5,892,707
22	Epidemiology Support	62600	1,497,192
23	Primary Care Support	62800	4,263,706
24	Sexual Assault Intervention		
25	and Prevention	72300	125,000
26	Health Right Free Clinics.....	72700	3,750,000
27	Capital Outlay and		
28	Maintenance (R)	75500	70,000
29	Healthy Lifestyles	77800	890,000

30	Maternal Mortality Review.....	83400	49,933
31	Diabetes Education		
32	and Prevention	87300	97,125
33	BRIM Premium.....	91300	169,791
34	State Trauma and Emergency		
35	Care System.....	91800	1,921,322
36	WVU Charleston Poison		
37	Control Hotline	94400	<u>712,942</u>
38	Total.....		\$ 74,928,981

39 Any unexpended balances remaining in the appropriations for
40 Safe Drinking Water Program (fund 0407, appropriation 18700),
41 Office of Drug Control Policy (fund 0407, appropriation 35401),
42 Office of Drug Control Policy – Surplus (fund 0407, appropriation
43 35402), Statewide EMS Program Support (fund 0407,
44 appropriation 38300), Office of Medical Cannabis (fund 0407,
45 appropriation 42001), Maternal and Child Health Clinics,
46 Clinicians and Medical Contracts and Fees (fund 0407,
47 appropriation 57500), Capital Outlay and Maintenance (fund 0407,
48 appropriation 75500), Emergency Response Entities – Special
49 Projects (fund 0407, appropriation 82200), and Tobacco Education
50 Program (fund 0407, appropriation 90600) at the close of the fiscal
51 year 2020 are hereby reappropriated for expenditure during the
52 fiscal year 2021.

53 From the above appropriation for Current Expenses (fund 0407,
54 appropriation 13000), an amount not less than \$100,000 is for the
55 West Virginia Cancer Coalition; \$50,000 shall be expended for the
56 West Virginia Aids Coalition; \$100,000 is for Adolescent
57 Immunization Education; \$73,065 is for informal dispute
58 resolution relating to nursing home administrative appeals;
59 \$50,000 is for Hospital Hospitality House of Huntington; and
60 \$200,000 is for Potomac Center Inc. of Romney, West Virginia.

61 From the above appropriation for Maternal and Child Health
62 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
63 appropriation 57500) up to \$400,000 may be transferred to the
64 Breast and Cervical Cancer Diagnostic Treatment Fund (fund
65 5197) and \$11,000 is for the Marshall County Health Department
66 for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,632,588
3	Current Expenses	13000	14,113
4	Behavioral Health Program (R)	21900	68,613,953
5	Jobs & Hope.....	14902	4,500,000
6	Family Support Act.....	22100	251,226
7	Institutional Facilities		
8	Operations (R)	33500	147,729,180
9	Substance Abuse		
10	Continuum of Care (R).....	35400	1,840,000
11	Capital Outlay and		
12	Maintenance (R)	75500	2,875,000
13	Renaissance Program	80400	165,996
14	BRIM Premium.....	91300	<u>1,296,098</u>
15	Total.....		\$ 228,918,154

16 Any unexpended balances remaining in the appropriations for
17 Jim's Dream (fund 0525, appropriation 14901), Behavioral Health
18 Program (fund 0525, appropriation 21900), Institutional Facilities
19 Operations (fund 0525, appropriation 33500), Substance Abuse
20 Continuum of Care (fund 0525, appropriation 35400), and Capital
21 Outlay and Maintenance (fund 0525, appropriation 75500) at the
22 close of the fiscal year 2020 are hereby reappropriated for
23 expenditure during the fiscal year 2021.

24 Notwithstanding the provisions of Title I, section three of this
25 bill, the secretary of the Department of Health and Human
26 Resources shall have the authority to transfer funds within the
27 above appropriations: *Provided*, That no more than five percent of
28 the funds appropriated to one appropriation may be transferred to
29 other appropriations: *Provided, however*, That no funds from other
30 appropriations shall be transferred to the personal services and
31 employee benefits appropriation.

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

35 The above appropriation for Institutional Facilities Operations
36 (fund 0525, appropriation 33500) contains prior year salary
37 increases due to the Hartley court order in the amount of
38 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for
39 Mildred Mitchel-Bateman Hospital.

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

44 Additional funds have been appropriated in fund 5156, fiscal
45 year 2021, organization 0506, for the operation of the institutional
46 facilities. The secretary of the Department of Health and Human
47 Resources is authorized to utilize up to ten percent of the funds
48 from the Institutional Facilities Operations appropriation to
49 facilitate cost effective and cost saving services at the community
50 level.

59 - Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2021 Org 0506

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

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

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2021 Org 0510

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,073,553
3	Unclassified.....	09900	4,024
4	Current Expenses	13000	331,304
5	BRIM Premium.....	91300	<u>10,764</u>
6	Total.....		\$ 1,419,645

61 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 48,929,356
3	Unclassified.....	09900	5,688,944
4	Current Expenses	13000	12,866,637
5	Child Care Development.....	14400	3,102,718
6	Medical Services.....	18900	297,855,264
7	Social Services	19500	226,376,781
8	Family Preservation Program	19600	1,565,000
9	Family Resource Networks.....	27400	1,762,464
10	Domestic Violence Legal		
11	Services Fund.....	38400	400,000
12	James "Tiger" Morton Catastrophic		
13	Illness Fund.....	45500	105,695
14	I/DD Waiver.....	46600	108,541,736
15	Child Protective Services		
16	Case Workers.....	46800	27,843,073
17	Title XIX Waiver for Seniors.....	53300	13,593,620
18	WV Teaching Hospitals		
19	Tertiary/Safety Net	54700	6,356,000
20	In-Home Family Education.....	68800	1,000,000
21	WV Works Separate State Program.....	69800	135,000
22	Child Support Enforcement	70500	6,458,806

23	Temporary Assistance for		
24	Needy Families/		
25	Maintenance of Effort.....	70700	25,819,096
26	Child Care – Maintenance		
27	of Effort Match	70800	5,693,743
28	Grants for Licensed Domestic		
29	Violence Programs and		
30	Statewide Prevention	75000	2,500,000
31	Capital Outlay and		
32	Maintenance (R)	75500	11,875
33	Community Based Services and		
34	Pilot Programs for Youth.....	75900	1,000,000
35	Medical Services		
36	Administrative Costs	78900	38,234,761
37	Traumatic Brain Injury Waiver.....	83500	800,000
38	Indigent Burials (R)	85100	1,550,000
39	CHIP Administrative Costs.....	85601	700,000
40	CHIP Services	85602	6,390,665
41	BRIM Premium.....	91300	892,642
42	Rural Hospitals Under 150 Beds.....	94000	2,596,000
43	Children’s Trust Fund – Transfer.....	95100	220,000
44	PATH	95400	<u>7,162,452</u>
45	Total.....		\$ 856,152,328

46 Any unexpended balances remaining in the appropriations for
47 Capital Outlay and Maintenance (fund 0403, appropriation 75500)
48 and Indigent Burials (fund 0403, appropriation 85100) at the close
49 of the fiscal year 2020 are hereby reappropriated for expenditure
50 during the fiscal year 2021.

51 Notwithstanding the provisions of Title I, section three of this
52 bill, the secretary of the Department of Health and Human
53 Resources shall have the authority to transfer funds within the
54 above appropriations: *Provided*, That no more than five percent of
55 the funds appropriated to one appropriation may be transferred to
56 other appropriations: *Provided, however*, That no funds from other
57 appropriations shall be transferred to the personal services and
58 employee benefits appropriation.

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

62 Included in the above appropriation for Social Services (fund
63 0403, appropriation 19500) is funding for continuing education
64 requirements relating to the practice of social work.

65 The above appropriation for Domestic Violence Legal Services
66 Fund (fund 0403, appropriation 38400) shall be transferred to the
67 Domestic Violence Legal Services Fund (fund 5455).

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

73 The above appropriation for WV Works Separate State Program
74 (fund 0403, appropriation 69800), shall be transferred to the WV
75 Works Separate State College Program Fund (fund 5467), and the
76 WV Works Separate State Two-Parent Program Fund (fund 5468)
77 as determined by the secretary of the Department of Health and
78 Human Resources.

79 From the above appropriation for Child Support Enforcement
80 (fund 0403, appropriation 70500) an amount not to exceed
81 \$300,000 may be transferred to a local banking depository to be
82 utilized to offset funds determined to be uncollectible.

83 From the above appropriation for the Grants for Licensed
84 Domestic Violence Programs and Statewide Prevention (fund
85 0403, appropriation 75000), 50% of the total shall be divided
86 equally and distributed among the fourteen (14) licensed programs
87 and the West Virginia Coalition Against Domestic Violence
88 (WVCADV). The balance remaining in the appropriation for
89 Grants for Licensed Domestic Violence Programs and Statewide
90 Prevention (fund 0403, appropriation 75000), shall be distributed
91 according to the formula established by the Family Protection
92 Services Board.

93 The above appropriation for Children’s Trust Fund – Transfer
 94 (fund 0403, appropriation 95100) shall be transferred to the
 95 Children’s Trust Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS
 AND PUBLIC SAFETY**

62 - Department of Military Affairs and Public Safety –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2021 Org 0601

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 684,426
3	Unclassified (R).....	09900	16,386
4	Current Expenses.....	13000	168,968
5	Repairs and Alterations.....	06400	1,500
6	Equipment.....	07000	1,500
7	Fusion Center (R).....	46900	824,000
8	Other Assets.....	69000	2,500
9	Directed Transfer.....	70000	32,000
10	BRIM Premium.....	91300	22,563
11	WV Fire and EMS Survivor		
12	Benefit (R).....	93900	<u>200,000</u>
13	Total.....		\$ 1,953,843

14 Any unexpended balances remaining in the appropriations for
 15 Unclassified (fund 0430, appropriation 09900), Fusion Center
 16 (fund 0430, appropriation 46900), Justice Reinvestment Training –
 17 Surplus (fund 0430, appropriation 69900), WV Fire and EMS
 18 Survivor Benefit (fund 0430, appropriation 93900), and Homeland
 19 State Security Administrative Agency (fund 0430, appropriation
 20 95300) at the close of the fiscal year 2020 are hereby
 21 reappropriated for expenditure during the fiscal year 2021.

22 The above appropriation for Directed Transfer (fund 0430,
 23 appropriation 70000) shall be transferred to the Law-Enforcement,

24 Safety and Emergency Worker Funeral Expense Payment Fund
25 (fund 6003).

63 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2021 Org 0603

1	Unclassified (R)	09900	\$	106,798
2	College Education Fund.....	23200		4,000,000
3	Civil Air Patrol.....	23400		249,664
4	Mountaineer ChalleNGe Academy	70900		1,500,000
5	Armory Board Transfer.....	70015		2,317,555
6	Military Authority (R).....	74800		6,260,251
7	Drug Enforcement and Support	74801		<u>1,500,000</u>
8	Total.....		\$	15,934,268

9 Any unexpended balances remaining in the appropriations for
10 Unclassified (fund 0433, appropriation 09900), Military Authority
11 (fund 0433, appropriation 74800), and Military Authority –
12 Surplus (fund 0433, appropriation 74899) at the close of the fiscal
13 year 2020 is hereby reappropriated for expenditure during the fiscal
14 year 2021.

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 operation
18 and maintenance of National Guard Armories.

19 The adjutant general shall have the authority to transfer between
20 appropriations.

21 From the above appropriation and other state and federal
22 funding, the Adjutant General shall provide an amount not less than
23 \$1,500,000 to the Mountaineer ChalleNGe Academy to meet
24 anticipated program demand.

*64 - Adjutant General –**Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2021 Org 0603

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 100,000
3	Current Expenses	13000	<u>57,775</u>
4	Total.....		\$ 157,775

65 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2021 Org 0605

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 405,066
3	Current Expenses	13000	355,234
4	Unclassified.....	09900	10,000
5	Salaries of Members of		
6	West Virginia Parole Board.....	22700	609,833
7	BRIM Premium.....	91300	<u>6,149</u>
8	Total.....		\$ 1,386,282

9 The above appropriation for Salaries of Members of West
 10 Virginia Parole Board (fund 0440, appropriation 22700) includes
 11 funding for salary, annual increment (as provided for in W.Va.
 12 Code §5-5-1), and related employee benefits of board members.

*66 - Division of Homeland Security and**Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2021 Org 0606

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,189,894

2020]

HOUSE OF DELEGATES

1975

3	Unclassified.....	09900	25,022
4	Current Expenses	13000	57,314
5	Repairs and Alterations.....	06400	600
6	Radiological Emergency		
7	Preparedness	55400	17,052
8	SIRN	55401	600,000
9	Federal Funds/Grant Match (R).....	74900	1,409,145
10	Mine and Industrial Accident Rapid		
11	Response Call Center.....	78100	469,911
12	Early Warning Flood System (R)	87700	1,284,448
13	BRIM Premium.....	91300	96,529
14	Total.....		\$ 6,149,915

15 Any unexpended balances remaining in the appropriations for
16 Federal Funds/Grant Match (fund 0443, appropriation 74900),
17 Early Warning Flood System (fund 0443, appropriation 87700),
18 and Disaster Mitigation (fund 0443, appropriation 95200) at the
19 close of the fiscal year 2020 are hereby reappropriated for
20 expenditure during the fiscal year 2021.

67 - Division of Corrections and Rehabilitation –

Central Office

(WV Code Chapter 15A)

Fund 0446 FY 2021 Org 0608

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 576,577
3	Current Expenses	13000	2,400
4	Total.....		\$ 578,977

68 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 0450 FY 2021 Org 0608

1	Employee Benefits	01000	\$ 1,258,136
---	-------------------------	-------	--------------

2	Children's Protection Act (R)	09000	838,437
3	Unclassified.....	09900	1,578,800
4	Current Expenses (R).....	13000	52,016,936
5	Facilities Planning and		
6	Administration (R).....	38600	1,274,200
7	Charleston Correctional Center.....	45600	3,400,402
8	Beckley Correctional Center.....	49000	2,518,874
9	Anthony Correctional Center.....	50400	6,096,779
10	Huttonsville Correctional Center	51400	21,920,001
11	Northern Correctional Center.....	53400	8,018,685
12	Inmate Medical Expenses (R).....	53500	21,226,064
13	Pruntytown Correctional Center	54300	8,597,911
14	Corrections Academy.....	56900	1,925,980
15	Information Technology Services.....	59901	2,759,052
16	Martinsburg Correctional Center	66300	4,348,990
17	Parole Services.....	68600	5,850,564
18	Special Services	68700	6,477,777
19	Investigative Services	71600	3,394,070
20	Capital Outlay and		
21	Maintenance (R)	75500	2,000,000
22	Salem Correctional Center.....	77400	11,455,381
23	McDowell County		
24	Correctional Center.....	79000	2,542,590
25	Stevens Correctional Center	79100	7,863,195
26	Parkersburg Correctional Center.....	82800	3,927,845
27	St. Mary's Correctional Center	88100	14,497,534
28	Denmar Correctional Center	88200	5,189,043
29	Ohio County Correctional Center	88300	2,147,492
30	Mt. Olive Correctional Complex	88800	22,357,432
31	Lakin Correctional Center.....	89600	10,711,864
32	BRIM Premium.....	91300	<u>2,527,657</u>
33	Total.....		\$ 238,721,691

34 Any unexpended balances remaining in the appropriations for
35 Children's Protection Act (fund 0450, appropriation 09000),
36 Unclassified – Surplus (fund 0450, appropriation 09700), Current
37 Expenses (fund 0450, appropriation 13000), Facilities Planning
38 and Administration (fund 0450, appropriation 38600), Inmate
39 Medical Expenses (fund 0450, appropriation 53500), Capital

40 Improvements – Surplus (fund 0450, appropriation 66100), Capital
 41 Outlay, Repairs and Equipment – Surplus (fund 0450,
 42 appropriation 67700), Capital Outlay and Maintenance (fund 0450,
 43 appropriation 75500), Security System Improvements – Surplus
 44 (fund 0450, appropriation 75501), and Roof Repairs and
 45 Mechanical System Upgrades (fund 0450, appropriation 75502) at
 46 the close of the fiscal year 2020 are hereby reappropriated for
 47 expenditure during the fiscal year 2021.

48 The Commissioner of Corrections and Rehabilitation shall have
 49 the authority to transfer between individual correctional unit
 50 appropriations as specified above and may transfer funds from the
 51 individual correctional unit appropriations as specified above to
 52 Current Expenses (fund 0450, appropriation 13000) or Inmate
 53 Medical Expenses (fund 0450, appropriation 53500).

54 From the above appropriation to Current Expenses (fund 0450,
 55 appropriation 13000) payment shall be made to house Division of
 56 Corrections and Rehabilitation inmates in federal, county, and /or
 57 regional jails.

58 Any realized savings from Energy Savings Contract may be
 59 transferred to Facilities Planning and Administration (fund 0450,
 60 appropriation 38600).

69 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(WV Code Chapter 15A)

Fund 0570 FY 2021 Org 0608

1	Statewide Reporting Centers.....	26200	\$	7,358,529
2	Robert L. Shell Juvenile Center	26700		2,519,068
3	Resident Medical Expenses (R)	53501		3,604,999
4	Central Office.....	70100		2,167,320
5	Capital Outlay and			
6	Maintenance (R)	75500		250,000
7	Gene Spadaro Juvenile Center	79300		2,692,984
8	BRIM Premium.....	91300		115,967

9	Kenneth Honey Rubenstein		
10	Juvenile Center (R)	98000	5,808,523
11	Vicki Douglas Juvenile Center	98100	2,389,494
12	Northern Regional Juvenile Center	98200	2,876,302
13	Lorrie Yeager Jr. Juvenile Center	98300	2,422,880
14	Sam Perdue Juvenile Center	98400	2,614,497
15	Tiger Morton Center	98500	2,633,060
16	Donald R. Kuhn Juvenile Center	98600	5,060,657
17	J.M. "Chick" Buckbee		
18	Juvenile Center	98700	<u>2,527,617</u>
19	Total		\$ 45,041,897

20 Any unexpended balances remaining in the appropriations for
 21 Resident Medical Expenses (fund 0570, appropriation 53501),
 22 Capital Outlay and Maintenance (fund 0570, appropriation 75500),
 23 Roof Repairs and Mechanical System Upgrades (fund 0570,
 24 appropriation 75502), and Kenneth Honey Rubenstein Juvenile
 25 Center (fund 0570, appropriation 98000) at the close of the fiscal
 26 year 2020 are hereby reappropriated for expenditure during the
 27 fiscal year 2021.

28 The Director of Juvenile Services shall have the authority to
 29 transfer between appropriations to the individual juvenile centers
 30 above including statewide reporting centers and central office and
 31 may transfer funds from the individual juvenile centers to Resident
 32 Medical Expenses (fund 0570, appropriation 53501).

70 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2021 Org 0612

1	Personal Services and		
2	Employee Benefits	00100	\$ 62,255,235
3	Children's Protection Act	09000	1,009,529
4	Current Expenses	13000	10,384,394
5	Repairs and Alterations	06400	450,523
6	Trooper Class	52100	3,207,832
7	Barracks Lease Payments	55600	237,898

8	Communications and		
9	Other Equipment (R)	55800	1,070,968
10	Trooper Retirement Fund.....	60500	11,487,590
11	Handgun Administration Expense	74700	77,892
12	Capital Outlay and		
13	Maintenance (R)	75500	250,000
14	Retirement Systems –		
15	Unfunded Liability.....	77500	16,648,000
16	Automated Fingerprint		
17	Identification System	89800	2,211,693
18	BRIM Premium.....	91300	5,743,921
19	Total.....		\$ 115,035,475

20 Any unexpended balances remaining in the appropriations for
 21 Communications and Other Equipment (fund 0453, appropriation
 22 55800), and Capital Outlay and Maintenance (fund 0453,
 23 appropriation 75500) at the close of the fiscal year 2020 are hereby
 24 reappropriated for expenditure during the fiscal year 2021.

25 From the above appropriation for Personal Services and
 26 Employee Benefits (fund 0453, appropriation 00100), an amount
 27 not less than \$25,000 shall be expended to offset the costs
 28 associated with providing police services for the West Virginia
 29 State Fair.

71 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2021 Org 0619

1	Current Expenses	13000	\$	64,021
---	------------------------	-------	----	--------

72 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2021 Org 0622

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,029,459

3	Unclassified (R)	09900		21,991
4	Current Expenses	13000		422,981
5	Repairs and Alterations.....	06400		8,500
6	Equipment (R).....	07000		64,171
7	BRIM Premium.....	91300		<u>32,602</u>
8	Total.....		\$	3,579,704

9 Any unexpended balances remaining in the appropriations for
 10 Equipment (fund 0585, appropriation 07000), and Unclassified
 11 (fund 0585, appropriation 09900) at the close of the fiscal year
 12 2020 are hereby reappropriated for expenditure during the fiscal
 13 year 2021.

73 - Division of Administrative Services

(WV Code Chapter 15A)

Fund 0619 FY 2021 Org 0623

1	Personal Services and			
2	Employee Benefits.....	00100	\$	2,306,255
3	Current Expenses	13000		<u>305,000</u>
4	Total.....		\$	2,611,255

74 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2021 Org 0623

1	Personal Services and			
2	Employee Benefits.....	00100	\$	570,979
3	Current Expenses	13000		133,360
4	Repairs and Alterations.....	06400		1,804
5	Child Advocacy Centers (R).....	45800		2,206,954
6	Community Corrections (R)	56100		6,927,323
7	Statistical Analysis Program	59700		49,819
8	Sexual Assault Forensic			
9	Examination Commission (R)	71400		77,525
10	Qualitative Analysis and Training			
11	for Youth Services (R).....	76200		332,446

12	Law Enforcement		
13	Professional Standards.....	83800	164,272
14	BRIM Premium.....	91300	<u>2,123</u>
15	Total.....		\$ 10,466,605

16 Any unexpended balances remaining in the appropriations for
 17 Child Advocacy Centers (fund 0546, appropriation 45800),
 18 Community Corrections (fund 0546, appropriation 56100), Sexual
 19 Assault Forensic Examination Commission (fund 0546
 20 appropriation 71400), Qualitative Analysis and Training for Youth
 21 Services (fund 0546, appropriation 76200), and Law Enforcement
 22 Professional Standards – Surplus (fund 0546, appropriation 83899)
 23 at the close of the fiscal year 2020 are hereby reappropriated for
 24 expenditure during the fiscal year 2021.

25 From the above appropriation for Child Advocacy Centers
 26 (fund 0546, appropriation 45800), the division may retain an
 27 amount not to exceed four percent of the appropriation for
 28 administrative purposes.

DEPARTMENT OF REVENUE

75 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2021 Org 0701

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 516,906
3	Unclassified.....	09900	5,837
4	Current Expenses	13000	81,594
5	Repairs and Alterations.....	06400	1,262
6	Equipment.....	07000	8,000
7	Other Assets.....	69000	<u>500</u>
8	Total.....		\$ 614,099

9 Any unexpended balance remaining in the appropriation for
 10 Unclassified – Total (fund 0465, appropriation 09600) at the close
 11 of the fiscal year 2020 is hereby reappropriated for expenditure
 12 during the fiscal year 2021.

76 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2021 Org 0702

1	Personal Services and		
2	Employee Benefits (R)	00100	\$ 19,272,541
3	Unclassified (R)	09900	224,578
4	Current Expenses (R)	13000	5,873,635
5	Repairs and Alterations	06400	10,150
6	Equipment	07000	54,850
7	Tax Technology Upgrade	09400	3,700,000
8	Integrated Tax Assessment		
9	System (R)	29200	1,100,000
10	Multi State Tax Commission	65300	77,958
11	Other Assets	69000	10,000
12	BRIM Premium	91300	<u>15,579</u>
13	Total		\$ 30,339,291

14 Any unexpended balances remaining in the appropriations for
 15 Personal Services and Employee Benefits (fund 0470,
 16 appropriation 00100), Unclassified (fund 0470, appropriation
 17 09900), Current Expenses (fund 0470, appropriation 13000), and
 18 Integrated Tax Assessment System (fund 0470, appropriation
 19 29200) at the close of the fiscal year 2020 are hereby
 20 reappropriated for expenditure during the fiscal year 2021.

77 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2021 Org 0703

1	Personal Services and		
2	Employee Benefits	00100	\$ 794,942
3	Unclassified (R)	09900	1,199
4	Current Expenses	13000	<u>127,450</u>
5	Total		\$ 923,591

6 Any unexpended balance remaining in the appropriation for
 7 Unclassified (fund 0595, appropriation 09900) at the close of the
 8 fiscal year 2020 is hereby reappropriated for expenditure during the
 9 fiscal year 2021.

78 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2021 Org 0709

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 452,106
3	Current Expenses (R).....	13000	97,622
4	Unclassified.....	09900	5,255
5	BRIM Premium.....	91300	<u>3,062</u>
6	Total.....		\$ 558,045

7 Any unexpended balance remaining in the appropriation for
 8 Current Expenses (fund 0593, appropriation 13000) at the close of
 9 the fiscal year 2020 is hereby reappropriated for expenditure during
 10 the fiscal year 2021.

79 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2021 Org 0933

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 7,200
3	Current Expenses	13000	<u>29,611</u>
4	Total.....		\$ 36,811

DEPARTMENT OF TRANSPORTATION

80 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2021 Org 0804

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 361,627
3	Current Expenses	13000	1,287,707
4	Other Assets (R).....	69000	1,270,019
5	BRIM Premium.....	91300	<u>201,541</u>
6	Total.....		\$ 3,120,894

7 From the above appropriation for Current Expenses (fund 0506,
8 appropriation 13000), \$1,000,000 shall be transferred to the State
9 Rail Authority – Commuter Rail Access Fund (fund 8402).

10 Any unexpended balance remaining in the appropriation Other
11 Assets (fund 0506, appropriation 69000) at the close of the fiscal
12 year 2020 is hereby reappropriated for expenditure during the fiscal
13 year 2021.

81 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2021 Org 0805

1	Equipment (R).....	07000	\$ 25,000
2	Current Expenses (R).....	13000	<u>2,237,989</u>
3	Total.....		\$ 2,262,989

4 Any unexpended balances remaining in the appropriations for
5 Equipment (fund 0510, appropriation 07000), Current Expenses
6 (fund 0510, appropriation 13000), Buildings (fund 0510,
7 appropriation 25800), and Other Assets (fund 0510, appropriation
8 69000) at the close of the fiscal year 2020 are hereby
9 reappropriated for expenditure during the fiscal year 2021.

82 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2021 Org 0807

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 178,740
3	Current Expenses (R).....	13000	591,839

4	Repairs and Alterations.....	06400		100
5	BRIM Premium.....	91300		<u>4,438</u>
6	Total.....		\$	775,117

7 Any unexpended balances remaining in the appropriations for
 8 Unclassified (fund 0582, appropriation 09900) and Current
 9 Expenses (fund 0582, appropriation 13000) at the close of the fiscal
 10 year 2020 are hereby reappropriated for expenditure during the
 11 fiscal year 2021.

DEPARTMENT OF VETERANS' ASSISTANCE

83 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2021 Org 0613

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,987,212
3	Unclassified.....	09900		20,000
4	Current Expenses	13000		161,450
5	Repairs and Alterations.....	06400		5,000
6	Veterans' Field Offices	22800		405,550
7	Veterans' Nursing Home (R).....	28600		6,916,912
8	Veterans' Toll Free Assistance Line....	32800		2,015
9	Veterans' Reeducation			
10	Assistance (R).....	32900		40,000
11	Veterans' Grant Program (R).....	34200		560,000
12	Veterans' Grave Markers	47300		10,000
13	Veterans Outreach Programs	61700		200,740
14	Veterans Cemetery.....	80800		389,215
15	BRIM Premium.....	91300		<u>50,000</u>
16	Total.....		\$	10,748,094

17 Any unexpended balances remaining in the appropriations for
 18 Veterans' Nursing Home (fund 0456, appropriation 28600),
 19 Veterans' Reeducation Assistance (fund 0456, appropriation
 20 32900), Veterans' Grant Program (fund 0456, appropriation
 21 34200), Veterans' Bonus – Surplus (fund 0456, appropriation
 22 34400), and Educational Opportunities for Children of Deceased

23 Veterans (fund 0456, appropriation 85400) at the close of the fiscal
24 year 2020 are hereby reappropriated for expenditure during the
25 fiscal year 2021.

*84 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2021 Org 0618

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,217,096
3	Current Expenses	13000	<u>46,759</u>
4	Total.....		\$ 1,263,855

BUREAU OF SENIOR SERVICES

85 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2021 Org 0508

1	Current Expenses	13000	\$ 500,000
2	Transfer to Division of Human		
3	Services for Health Care		
4	and Title XIX Waiver for		
5	Senior Citizens.....	53900	<u>29,950,955</u>
6	Total.....		\$ 30,450,955

7 From the above appropriation for Current Expenses (fund 0420,
8 appropriation 13000), \$500,000 shall be used for Local Senior
9 Citizens Projects.

10 The above appropriation for Transfer to Division of Human
11 Services for Health Care and Title XIX Waiver for Senior Citizens
12 (fund 0420, appropriation 53900) along with the federal moneys
13 generated thereby shall be used for reimbursement for services
14 provided under the program.

15 The above appropriation is in addition to funding provided in
 16 fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY
 AND TECHNICAL COLLEGE EDUCATION**

86 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2021 Org 0420

1	West Virginia Council for		
2	Community and Technical		
3	Education (R).....	39200	\$ 738,955
4	Transit Training Partnership	78300	34,293
5	Community College		
6	Workforce Development (R)	87800	2,786,925
7	College Transition Program.....	88700	278,222
8	West Virginia Advance		
9	Workforce Development (R)	89300	3,118,960
10	Technical Program		
11	Development (R)	89400	1,800,735
12	WV Invests Grant Program.....	89401	<u>7,034,748</u>
13	Total.....		\$ 15,792,838

14 Any unexpended balances remaining in the appropriations for
 15 West Virginia Council for Community and Technical Education
 16 (fund 0596, appropriation 39200), Capital Improvements – Surplus
 17 (fund 0596, appropriation 66100), Community College Workforce
 18 Development (fund 0596, appropriation 87800), West Virginia
 19 Advance Workforce Development (fund 0596, appropriation
 20 89300), and Technical Program Development (fund 0596,
 21 appropriation 89400) at the close of the fiscal year 2020 are hereby
 22 reappropriated for expenditure during the fiscal year 2021.

23 From the above appropriation for the Community College
 24 Workforce Development (fund 0596, appropriation 87800),
 25 \$200,000 shall be expended on the Mine Training Program in
 26 Southern West Virginia.

27 Included in the above appropriation for West Virginia Advance
 28 Workforce Development (fund 0596, appropriation 89300) is
 29 \$200,000 to be used exclusively for advanced manufacturing and
 30 energy industry specific training programs.

87 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2021 Org 0444

1	Mountwest Community and		
2	Technical College	48700	\$ 6,489,307

88 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2021 Org 0445

1	New River Community and		
2	Technical College	35800	\$ 5,864,886

89 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2021 Org 0446

1	Pierpont Community and		
2	Technical College		
3	93000	\$	7,820,129

90 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2021 Org 0447

1	Blue Ridge Community and			
2	Technical College	88500	\$	7,830,842

91 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2021 Org 0464

1	West Virginia University –			
2	Parkersburg	47100	\$	10,319,284

92 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2021 Org 0487

1	Southern West Virginia Community			
2	and Technical College	44600	\$	8,241,823

93 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2021 Org 0489

1	West Virginia Northern Community			
2	and Technical College	44700	\$	7,285,825

94 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2021 Org 0492

1	Eastern West Virginia Community			
2	and Technical College	41200	\$	2,179,912

95 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2021 Org 0493

1	BridgeValley Community and		
2	Technical College	71700	\$ 8,098,811

HIGHER EDUCATION POLICY COMMISSION

96 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2021 Org 0441

1	Personal Services and		
2	Employee Benefits	00100	\$ 2,710,154
3	Current Expenses	13000	1,113,606
4	Higher Education Grant Program	16400	40,619,864
5	Tuition Contract Program (R)	16500	1,225,120
6	Underwood-Smith Scholarship		
7	Program-Student Awards	16700	628,349
8	Facilities Planning and		
9	Administration	38600	1,760,254
10	Higher Education System		
11	Initiatives	48801	1,630,000
12	PROMISE Scholarship – Transfer	80000	18,500,000
13	HEAPS Grant Program (R)	86700	5,014,728
14	Health Professionals'		
15	Student Loan Program	86701	364,000
16	BRIM Premium	91300	<u>17,817</u>
17	Total		\$ 73,583,892

18 Any unexpended balances remaining in the appropriations for
 19 Tuition Contract Program (fund 0589, appropriation 16500),
 20 Capital Improvements – Surplus (fund 0589, appropriation 66100),
 21 and HEAPS Grant Program (fund 0589, appropriation 86700) at
 22 the close of the fiscal year 2020 are hereby reappropriated for
 23 expenditure during the fiscal year 2021.

24 The above appropriation for Facilities Planning and
25 Administration (fund 0589, appropriation 38600) is for operational
26 expenses of the West Virginia Education, Research and
27 Technology Park between construction and full occupancy.

28 The above appropriation for Higher Education Grant Program
29 (fund 0589, appropriation 16400) shall be transferred to the Higher
30 Education Grant Fund (fund 4933, org 0441) established by W.Va.
31 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 W.Va.
36 Code §18C-4-1.

37 The above appropriation for PROMISE Scholarship – Transfer
38 (fund 0589, appropriation 80000) shall be transferred to the
39 PROMISE Scholarship Fund (fund 4296, org 0441) established by
40 W.Va. Code §18C-7-7.

97 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B9)

Fund 0551 FY 2021 Org 0495

1 WVNET 16900 \$ 1,747,826

98 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2021 Org 0463

1	WVU School of Health Science –		
2	Eastern Division.....	05600	\$ 2,235,352
3	WVU – School of Health Sciences	17400	15,056,370
4	WVU – School of Health		
5	Sciences – Charleston Division	17500	2,286,711
6	Rural Health Outreach Programs	37700	164,517
7	West Virginia University		
8	School of Medicine		
9	BRIM Subsidy	46000	<u>1,203,087</u>
10	Total.....		\$ 20,946,037

11 The above appropriation for Rural Health Outreach Programs
 12 (fund 0343, appropriation 37700) includes rural health activities
 13 and programs; rural residency development and education; and
 14 rural outreach activities.

15 The above appropriation for West Virginia University School
 16 of Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall
 17 be paid to the Board of Risk and Insurance Management as a
 18 general revenue subsidy against the “Total Premium Billed” to the
 19 institution as part of the full cost of their malpractice insurance
 20 coverage.

99 - West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2021 Org 0463

1	West Virginia University	45900	\$ 97,017,960
2	Jackson’s Mill	46100	491,458
3	West Virginia University		
4	Institute of Technology	47900	8,020,938
5	State Priorities – Brownfield		
6	Professional Development	53100	316,556
7	Energy Express	86100	382,935
8	West Virginia University –		
9	Potomac State	99400	<u>4,512,711</u>
10	Total.....		\$ 110,742,558

11 From the above appropriation for Jackson’s Mill (fund 0344,
 12 appropriation 46100) \$250,000 shall be used for the West Virginia
 13 State Fire Training Academy.

100 - Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2021 Org 0471

1	Marshall Medical School	17300	\$	12,235,068
2	Rural Health Outreach			
3	Programs (R).....	37700		156,022
4	Forensic Lab.....	37701		227,415
5	Center for Rural Health.....	37702		157,096
6	Marshall University Medical			
7	School BRIM Subsidy	44900		<u>872,612</u>
8	Total.....		\$	13,648,213

9 Any unexpended balance remaining in the appropriation for
 10 Rural Health Outreach Program (fund 0347, appropriation 37700)
 11 at the close of the fiscal year 2020 is hereby reappropriated for
 12 expenditure during the fiscal year 2021.

13 The above appropriation for Rural Health Outreach Programs
 14 (fund 0347, appropriation 37700) includes rural health activities
 15 and programs; rural residency development and education; and
 16 rural outreach activities.

17 The above appropriation for Marshall University Medical
 18 School BRIM Subsidy (fund 0347, appropriation 44900) shall be
 19 paid to the Board of Risk and Insurance Management as a general
 20 revenue subsidy against the “Total Premium Billed” to the
 21 institution as part of the full cost of their malpractice insurance
 22 coverage.

101 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2021 Org 0471

1	Marshall University	44800	\$	46,761,199
2	Luke Lee Listening Language			
3	and Learning Lab	44801		99,015
4	Vista E-Learning (R).....	51900		229,019
5	State Priorities – Brownfield			
6	Professional Development (R).....	53100		309,606
7	Marshall University Graduate			
8	College Writing Project (R).....	80700		25,412
9	WV Autism Training Center (R)	93200		<u>1,808,381</u>
10	Total.....		\$	49,232,632

11 Any unexpended balances remaining in the appropriations for
 12 Vista E-Learning (fund 0348, appropriation 51900), State Priorities
 13 – Brownfield Professional Development (fund 0348, appropriation
 14 53100), Marshall University Graduate College Writing Project
 15 (fund 0348, appropriation 80700), and WV Autism Training
 16 Center (fund 0348, appropriation 93200) at the close of the fiscal
 17 year 2020 are hereby reappropriated for expenditure during the
 18 fiscal year 2021.

102 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2021 Org 0476

1	West Virginia School of			
2	Osteopathic Medicine	17200	\$	8,879,296
3	Rural Health Outreach			
4	Programs (R).....	37700		166,111
5	West Virginia School of			
6	Osteopathic Medicine			
7	BRIM Subsidy	40300		153,405
8	Rural Health Initiative –			
9	Medical Schools Support.....	58100		<u>397,592</u>
10	Total.....		\$	9,596,404

11 Any unexpended balance remaining in the appropriation for
 12 Rural Health Outreach Programs (fund 0336, appropriation 37700)
 13 at the close of fiscal year 2020 is hereby reappropriated for
 14 expenditure during the fiscal year 2021.

15 The above appropriation for Rural Health Outreach Programs
 16 (fund 0336, appropriation 37700) includes rural health activities
 17 and programs; rural residency development and education; and
 18 rural outreach activities.

19 The above appropriation for West Virginia School of
 20 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
 21 40300) shall be paid to the Board of Risk and Insurance
 22 Management as a general revenue subsidy against the “Total
 23 Premium Billed” to the institution as part of the full cost of their
 24 malpractice insurance coverage.

103 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2021 Org 0482

1	Bluefield State College	40800	\$	6,383,221
---	-------------------------------	-------	----	-----------

104 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2021 Org 0483

1	Concord University	41000	\$	10,476,415
---	--------------------------	-------	----	------------

105 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2021 Org 0484

1	Fairmont State University	41400	\$	18,600,341
---	---------------------------------	-------	----	------------

106 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2021 Org 0485

1 Glenville State College 42800 \$ 6,446,942

107 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2021 Org 0486

1 Shepherd University..... 43200 \$ 12,683,829

108 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2021 Org 0488

1 West Liberty University..... 43900 \$ 9,102,662

109 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2021 Org 0490

1 West Virginia State University 44100 \$ 11,342,512

2 West Virginia State University

3 Land Grant Match..... 95600 2,950,192

4 Total..... \$ 14,292,704

5 From the above appropriation for West Virginia State
6 University (fund 0373, appropriation 44100), \$300,000 shall be for
7 the Healthy Grandfamilies program.

8 Total TITLE II, Section 1 – General Revenue

9 (Including claims

10 against the state) \$ 4,578,900,000

Sec. 2. Appropriations from state road fund. — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2021.

DEPARTMENT OF TRANSPORTATION

110 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2021 Org 0802

		Appro-	State
		priation	Road
			Fund
1	Personal Services and		
2	Employee Benefits.....00100	\$	25,977,939
3	Current Expenses13000		16,175,840
4	Repairs and Alterations.....06400		144,000
5	Equipment.....07000		1,080,000
6	Buildings.....25800		10,000
7	Other Assets.....69000		2,600,000
8	BRIM Premium.....91300		<u>89,940</u>
9	Total.....	\$	<u>46,077,719</u>

111 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2021 Org 0803

1	Debt Service.....04000	\$	150,000,000
2	Maintenance.....23700		489,932,854
3	Inventory Revolving27500		4,000,000
4	Equipment Revolving27600		18,000,000
5	General Operations27700		80,000,000
6	Interstate Construction.....27800		90,000,000
7	Other Federal Aid Programs27900		370,000,000

8	Appalachian Programs	28000	100,000,000
9	Highway Litter Control.....	28200	1,650,000
10	Courtesy Patrol.....	28201	<u>5,000,000</u>
11	Total.....		\$ 1,308,582,854

12 The above appropriations are to be expended in accordance with
 13 the provisions of Chapters 17 and 17C of the code.

14 The Commissioner of Highways shall have the authority to
 15 operate revolving funds within the State Road Fund for the
 16 operation and purchase of various types of equipment used directly
 17 and indirectly in the construction and maintenance of roads and for
 18 the purchase of inventories and materials and supplies.

19 There is hereby appropriated in addition to the above
 20 appropriations, sufficient money for the payment of claims,
 21 accrued or arising during this budgetary period, to be paid in
 22 accordance with Sections 17 and 18, Article 2, Chapter 14 of the
 23 code.

24 It is the intent of the Legislature to capture and match all federal
 25 funds available for expenditure on the Appalachian highway
 26 system at the earliest possible time. Therefore, should amounts in
 27 excess of those appropriated be required for the purposes of
 28 Appalachian programs, funds in excess of the amount appropriated
 29 may be made available upon recommendation of the commissioner
 30 and approval of the Governor. Further, for the purpose of
 31 Appalachian programs, funds appropriated by appropriation may
 32 be transferred to other appropriations upon recommendation of the
 33 commissioner and approval of the Governor.

112 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2021 Org 0808

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,698,752
3	Current Expenses	13000	338,278
4	Repairs and Alterations.....	06400	3,000

5	Equipment.....	07000	15,500
6	BRIM Premium.....	91300	<u>10,000</u>
7	Total.....		\$ 2,065,530
8	Total TITLE II, Section 2 –		
9	State Road Fund (Including		
10	claims against the state).....		<u>\$ 1,357,570,267</u>

Sec. 3. Appropriations from other funds. — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2021.

LEGISLATIVE

113 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2021 Org 2300

		Appro- priation	Other Funds
1	Personal Services and		
2	Employee Benefits.....	00100	\$ 498,020
3	Current Expenses	13000	133,903
4	Repairs and Alterations.....	06400	1,000
5	Economic Loss Claim		
6	Payment Fund	33400	2,000,000
7	Other Assets	69000	<u>3,700</u>
8	Total.....		\$ 2,636,623

JUDICIAL

114 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2021 Org 2400

1	Current Expenses	13000	\$	1,150,000
---	------------------------	-------	----	-----------

2 From the above appropriation for Current Expenses (fund 1763,
 3 appropriation 13000), \$100,000 shall be used for the West Virginia
 4 CASA Association.

115 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund 1704 FY 2021 Org 2400

1	Current Expenses	13000	\$	100,000
---	------------------------	-------	----	---------

116 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund 1705 FY 2021 Org 2400

1	Current Expenses	13000	\$	200,000
---	------------------------	-------	----	---------

EXECUTIVE

117 - Governor’s Office –

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2021 Org 0100

1	Personal Services and			
2	Employee Benefits.....	00100	\$	177,737
3	Current Expenses	13000		503,200
4	Martin Luther King, Jr.			
5	Holiday Celebration.....	03100		8,926
6	Total.....		\$	689,863

*118 - Auditor's Office –**Land Operating Fund*

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2021 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 799,211
3	Unclassified.....	09900	15,139
4	Current Expenses	13000	715,291
5	Repairs and Alterations.....	06400	2,600
6	Equipment.....	07000	426,741
7	Cost of Delinquent Land Sales	76800	<u>1,841,168</u>
8	Total.....		\$ 3,800,150

9 There is hereby appropriated from this fund, in addition to the
10 above appropriations if needed, the necessary amount for the
11 expenditure of funds other than Personal Services and Employee
12 Benefits to enable the division to pay the direct expenses relating
13 to land sales as provided in Chapter 11A of the West Virginia
14 Code.

15 The total amount of these appropriations shall be paid from the
16 special revenue fund out of fees and collections as provided by law.

*119 - Auditor's Office –**Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2021 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 627,779
3	Current Expenses	13000	282,030
4	Repairs and Alterations.....	06400	6,000
5	Equipment.....	07000	10,805
6	Other Assets.....	69000	50,000
7	Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
8	Total.....		\$ 4,476,614

9 There is hereby appropriated from this fund, in addition to the
 10 above appropriations if needed, the amount necessary to meet the
 11 transfer of revenue distribution requirements to provide a
 12 proportionate share of rebates back to the general fund of local
 13 governments based on utilization of the program in accordance
 14 with W.Va. Code §6-9-2b.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2021 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,487,017
3	Unclassified.....	09900	31,866
4	Current Expenses	13000	1,463,830
5	Repairs and Alterations	06400	12,400
6	Equipment	07000	394,700
7	Other Assets	69000	<u>900,000</u>
8	Total.....		\$ 5,289,813

121 - Auditor's Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2021 Org 1200

1	Current Expenses	13000	\$ 10,000
2	Other Assets	69000	<u>5,000</u>
3	Total.....		\$ 15,000

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.

122 - Auditor's Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2021 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,824,837
3	Current Expenses	13000	2,303,622
4	Repairs and Alterations.....	06400	5,500
5	Equipment.....	07000	650,000
6	Other Assets.....	69000	308,886
7	Statutory Revenue Distribution.....	74100	<u>8,000,000</u>
8	Total.....		\$ 14,092,845

9 There is hereby appropriated from this fund, in addition to the
10 above appropriations if needed, the amount necessary to meet the
11 transfer and revenue distribution requirements to the Purchasing
12 Improvement Fund (fund 2264), the Hatfield-McCoy Regional
13 Recreation Authority, and the State Park Operating Fund (fund
14 3265) per W.Va. Code §12-3-10d.

123 - Auditor's Office –

Chief Inspector's Fund

(WV Code Chapter 6)

Fund 1235 FY 2021 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,583,096
3	Current Expenses	13000	765,915
4	Equipment.....	07000	<u>50,000</u>
5	Total.....		\$ 4,399,011

124 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2021 Org 1200

1	Volunteer Fire Department Workers’		
2	Compensation Subsidy	83200	\$ 2,500,000

125 - Treasurer’s Office

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2021 Org 1300

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 810,372
3	Unclassified.....	09900	14,000
4	Current Expenses	13000	<u>619,559</u>
5	Total.....		\$ 1,443,931

126 - Department of Agriculture –

Agriculture Fees Fund

(WV Code Chapter 19)

Fund 1401 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,425,446
3	Unclassified.....	09900	37,425
4	Current Expenses	13000	1,856,184
5	Repairs and Alterations.....	06400	158,500
6	Equipment.....	07000	436,209
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 4,923,764

127 - Department of Agriculture –

West Virginia Rural Rehabilitation Program

(WV Code Chapter 19)

Fund 1408 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 78,251
3	Unclassified.....	09900	10,476
4	Current Expenses	13000	<u>963,404</u>
5	Total.....		\$ 1,052,131

128 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 71,937
3	Unclassified.....	09900	2,100
4	Current Expenses	13000	89,500
5	Repairs and Alterations.....	06400	36,400
6	Equipment.....	07000	<u>15,000</u>
7	Total.....		\$ 214,937

8 The above appropriations shall be expended in accordance with
9 Article 26, Chapter 19 of the Code.

129 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 868,492
3	Unclassified.....	09900	15,173
4	Current Expenses	13000	1,367,464
5	Repairs and Alterations.....	06400	388,722
6	Equipment.....	07000	399,393
7	Other Assets.....	69000	<u>20,000</u>
8	Total.....		\$ 3,059,244

*130 - Department of Agriculture –**Capital Improvements Fund*

(WV Code Chapter 19)

Fund 1413 FY 2021 Org 1400

1	Unclassified.....	09900	10,000
2	Current Expenses	13000	10,000
3	Repairs and Alterations.....	06400	250,000
4	Equipment.....	07000	350,000
5	Building Improvements	25800	370,000
6	Other Assets.....	69000	<u>10,000</u>
7	Total.....		\$ 1,000,000

*131 - Department of Agriculture –**Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2021 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,030,451
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	27,000
8	Land	73000	<u>250,000</u>
9	Total.....		\$ 4,902,300

*132 - Department of Agriculture –**Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2021 Org 1400

*136 - Attorney General –**Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2021 Org 1500

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 363,466
3	Current Expenses	13000	148,803
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	<u>1,000</u>
6	Total.....		\$ 514,269

*137 - Attorney General –**Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2021 Org 1500

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 222,569
3	Current Expenses	13000	54,615
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	<u>1,000</u>
6	Total.....		\$ 279,184

*138 - Attorney General –**Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2021 Org 1500

1	Current Expenses	13000	\$ 901,135
---	------------------------	-------	------------

*139 - Secretary of State –**Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2021 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,065,106
3	Unclassified.....	09900	4,524
4	Current Expenses	13000	<u>8,036</u>
5	Total.....		\$ 1,077,666

*140 - Secretary of State –**General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2021 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,947,630
3	Unclassified.....	09900	25,529
4	Current Expenses	13000	976,716
5	Technology Improvements	59900	<u>570,000</u>
6	Total.....		\$ 4,519,875

DEPARTMENT OF ADMINISTRATION*141 - Department of Administration –**Office of the Secretary –**Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2021 Org 0201

1	Tobacco Settlement		
2	Securitization Trustee		
3	Pass Thru	65000	\$ 80,000,000

142 - Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2021 Org 0201

1	Current Expenses	13000		\$	42,143,000
2	The above appropriation for Current Expenses (fund 2044,				
3	appropriation 13000) shall be transferred to the Consolidated				
4	Public Retirement Board – Teachers’ Accumulation Fund (fund				
5	2600).				

143 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(WV Code Chapter 5A)

Fund 2020 FY 2021 Org 0209

1	Personal Services and				
2	Employee Benefits.....	00100		\$	1,500,000
3	Current Expenses	13000			<u>500,000</u>
4	Total.....			\$	<u>2,000,000</u>

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2021 Org 0210

1	Personal Services and				
2	Employee Benefits.....	00100		\$	22,464,463
3	Unclassified.....	09900			382,354
4	Current Expenses	13000			13,378,766
5	Repairs and Alterations.....	06400			1,000

6	Equipment.....	07000	2,050,000
7	Other Assets.....	69000	<u>1,045,000</u>
8	Total.....		\$ 39,321,583

9 The total amount of these appropriations shall be paid from a
10 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 postage
14 from the federal government shall be charged monthly for all
15 postage meter service and shall reimburse the revolving fund
16 monthly for all such amounts.

145 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2021 Org 0213

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 741,589
3	Unclassified.....	09900	2,382
4	Current Expenses	13000	208,115
5	Repairs and Alterations.....	06400	5,000
6	Equipment.....	07000	2,500
7	Other Assets.....	69000	2,500
8	BRIM Premium.....	91300	<u>810</u>
9	Total.....		\$ 962,896

146 - Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2021 Org 0213

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 778,176

3	Unclassified.....	09900	5,562
4	Current Expenses	13000	393,066
5	Repairs and Alterations.....	06400	500
6	Equipment.....	07000	500
7	Other Assets.....	69000	500
8	BRIM Premium.....	91300	850
9	Total.....		\$ 1,179,154

147 - Travel Management –

Aviation Fund

(WV Code Chapter 5A)

Fund 2302 FY 2021 Org 0215

1	Unclassified.....	09900	\$ 1,000
2	Current Expenses	13000	149,700
3	Repairs and Alterations.....	06400	1,175,237
4	Equipment.....	07000	1,000
5	Buildings.....	25800	100
6	Other Assets.....	69000	100
7	Land.....	73000	100
8	Total.....		\$ 1,327,237

148 - Fleet Management Division Fund

(WV Code Chapter 5A)

Fund 2301 FY 2021 Org 0216

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 757,145
3	Unclassified.....	09900	4,000
4	Current Expenses	13000	8,130,614
5	Repairs and Alterations.....	06400	12,000
6	Equipment.....	07000	800,000
7	Other Assets.....	69000	2,000
8	Total.....		\$ 9,705,759

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2021 Org 0222

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 4,760,683
3	Unclassified.....	09900	51,418
4	Current Expenses	13000	1,262,813
5	Repairs and Alterations.....	06400	5,000
6	Equipment	07000	20,000
7	Other Assets.....	69000	<u>60,000</u>
8	Total.....		\$ 6,159,914

9 The total amount of these appropriations shall be paid from a
10 special revenue fund out of fees collected by the Division of
11 Personnel.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2021 Org 0228

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 251,663
3	Unclassified.....	09900	4,023
4	Current Expenses	13000	297,528
5	Repairs and Alterations.....	06400	600
6	Equipment	07000	500
7	Other Assets.....	69000	<u>500</u>
8	Total.....		\$ 554,814

*151 - Office of Technology –**Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2021 Org 0231

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 414,722
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.....		\$ 709,787

9 From the above fund, the provisions of W.Va. Code §11B-2-18
10 shall not operate to permit expenditures in excess of the funds
11 authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2021 Org 0305

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,574,177
3	Current Expenses	13000	282,202
4	Repairs and Alterations.....	06400	53,000
5	Equipment.....	07000	<u>300,000</u>
6	Total.....		\$ 2,209,379

153 - Division of Forestry –

Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2021 Org 0305

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 239,244
3	Current Expenses	13000	87,036
4	Repairs and Alterations.....	06400	<u>11,250</u>
5	Total.....		\$ 337,530

*154 - Division of Forestry –**Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2021 Org 0305

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 859,626
3	Current Expenses	13000	<u>435,339</u>
4	Total.....		\$ 1,294,965

*155 - Geological and Economic Survey –**Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2021 Org 0306

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 37,966
3	Unclassified.....	09900	2,182
4	Current Expenses	13000	141,631
5	Repairs and Alterations.....	06400	50,000
6	Equipment.....	07000	20,000
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 261,779

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 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,592,400
3	Equipment.....07000		36,000
4	Unclassified.....09900		30,000
5	Current Expenses13000		<u>1,446,760</u>
6	Total.....	\$	3,105,160

157 - West Virginia Development Office –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....00100	\$	435,661
3	Unclassified.....09900		8,300
4	Current Expenses13000		<u>399,191</u>
5	Total.....	\$	843,152

158 - West Virginia Development Office

Entrepreneurship and Innovation Investment Fund

(WV Code Chapter 5B)

Fund 3014 FY 2021 Org 0307

1	Entrepreneurship and Innovation		
2	Investment Fund70301	\$	500,000

159 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....00100	\$	300,000
3	Unclassified.....09900		4,000

2020]

HOUSE OF DELEGATES

2017

4	Current Expenses	13000		85,000
5	Repairs and Alterations	06400		1,500
6	Buildings	25800		1,000
7	BRIM Premium.....	91300		8,500
8	Total.....		\$	400,000

160 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2021 Org 0308

1	Personal Services and			
2	Employee Benefits.....	00100	\$	2,532,000
3	Unclassified.....	09900		21,000
4	Current Expenses	13000		500,000
5	Repairs and Alterations	06400		5,000
6	Buildings	25800		5,000
7	BRIM Premium.....	91300		8,500
8	Total.....		\$	3,071,500

161 - Division of Labor –

Elevator Safety Fund

(WV Code Chapter 21)

Fund 3188 FY 2021 Org 0308

1	Personal Services and			
2	Employee Benefits.....	00100	\$	397,862
3	Unclassified.....	09900		2,261
4	Current Expenses	13000		44,112
5	Repairs and Alterations	06400		2,000
6	Buildings	25800		1,000
7	BRIM Premium.....	91300		8,500
8	Total.....		\$	455,735

*162 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 82,716
3	Unclassified.....	09900	1,000
4	Current Expenses	13000	15,000
5	Repairs and Alterations.....	06400	2,000
6	Buildings	25800	1,000
7	BRIM Premium.....	91300	<u>1,000</u>
8	Total.....		\$ 102,716

*163 - Division of Labor –**Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 191,899
3	Unclassified.....	09900	1,380
4	Current Expenses	13000	49,765
5	Repairs and Alterations.....	06400	1,500
6	Buildings	25800	1,000
7	BRIM Premium.....	91300	<u>8,500</u>
8	Total.....		\$ 254,044

*164 - Division of Labor –**Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2021 Org 0308

2020]

HOUSE OF DELEGATES

2019

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 187,462
3	Unclassified.....	09900	1,281
4	Current Expenses	13000	44,520
5	Repairs and Alterations.....	06400	2,000
6	Buildings	25800	1,000
7	BRIM Premium.....	91300	<u>8,500</u>
8	Total.....		\$ 244,763

165 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 289,199
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.....		\$ 340,150

166 - Division of Labor –

Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,500,000
3	Current Expenses	13000	227,000
4	Repairs and Alterations.....	06400	28,000
5	Equipment.....	07000	15,000
6	BRIM Premium.....	91300	<u>8,500</u>
7	Total.....		\$ 1,778,500

*167 - Division of Labor –**Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 150,000
3	Unclassified.....	09900	2,000
4	Current Expenses	13000	43,000
5	Repairs and Alterations.....	06400	2,000
6	Buildings	25800	1,000
7	BRIM Premium.....	91300	<u>2,000</u>
8	Total.....		\$ 200,000

*168 - Division of Labor –**Psychophysiological Examiners Fund*

(WV Code Chapter 21)

Fund 3199 FY 2021 Org 0308

1	Current Expenses	13000	\$ 4,000
---	------------------------	-------	----------

*169 - Division of Natural Resources –**License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2021 Org 0310

1	Wildlife Resources.....	02300	\$ 5,200,996
2	Administration	15500	1,300,249
3	Capital Improvements and		
4	Land Purchase (R)	24800	1,300,248
5	Law Enforcement.....	80600	<u>5,200,996</u>
6	Total.....		\$ 13,002,489

7 The total amount of these appropriations shall be paid from a
 8 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 2020 is hereby
 13 reappropriated for expenditure during the fiscal year 2021.

170 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(WV Code Chapter 22)

Fund 3202 FY 2021 Org 0310

1	Current Expenses	13000	\$	125,000
---	------------------------	-------	----	---------

171 - Division of Natural Resources –

Nongame Fund

(WV Code Chapter 20)

Fund 3203 FY 2021 Org 0310

1	Personal Services and			
2	Employee Benefits.....	00100	\$	688,103
3	Current Expenses	13000		201,810
4	Equipment.....	07000		<u>106,615</u>
5	Total.....		\$	996,528

172 - Division of Natural Resources –

Planning and Development Division

(WV Code Chapter 20)

Fund 3205 FY 2021 Org 0310

1	Personal Services and			
2	Employee Benefits.....	00100	\$	457,738

2022

JOURNAL OF THE

[March 4

3	Current Expenses	13000		257,864
4	Repairs and Alterations	06400		15,016
5	Equipment	07000		8,300
6	Buildings	25800		8,300
7	Other Assets	69000		1,900,000
8	Land	73000		<u>31,700</u>
9	Total.....		\$	2,678,918

173 - Division of Natural Resources –

Whitewater Study and Improvement Fund

(WV Code Chapter 20)

Fund 3253 FY 2021 Org 0310

1	Personal Services and			
2	Employee Benefits.....	00100	\$	67,641
3	Current Expenses	13000		64,778
4	Equipment.....	07000		1,297
5	Buildings.....	25800		<u>6,969</u>
6	Total.....		\$	140,685

174 - Division of Natural Resources –

Whitewater Advertising and Promotion Fund

(WV Code Chapter 20)

Fund 3256 FY 2021 Org 0310

1	Unclassified.....	09900	\$	200
2	Current Expenses	13000		<u>19,800</u>
3	Total.....		\$	20,000

175 - Division of Miners' Health, Safety and Training –

Special Health, Safety and Training Fund

(WV Code Chapter 22A)

Fund 3355 FY 2021 Org 0314

2020]

HOUSE OF DELEGATES

2023

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 501,228
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.....		\$ 4,128,128

176 - Department of Commerce –

Office of the Secretary –

Broadband Enhancement Fund

Fund 3013 FY 2021 Org 0327

1	Current Expenses	13000	\$ 1,780,000
---	------------------------	-------	--------------

177 - Office of Energy –

Energy Assistance

(WV Code Chapter 5B)

Fund 3010 FY 2021 Org 0328

1	Energy Assistance – Total	64700	\$ 7,211
---	---------------------------------	-------	----------

178 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(WV Code Chapter 18)

Fund 8664 FY 2021 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 119,738
3	Current Expenses	13000	1,180,122
4	Repairs and Alterations.....	06400	85,500

5	Equipment.....	07000	220,000
6	Buildings.....	25800	150,000
7	Other Assets.....	69000	<u>150,000</u>
8	Total.....		\$ 1,905,360

DEPARTMENT OF EDUCATION

179 - State Board of Education –

Strategic Staff Development

(WV Code Chapter 18)

Fund 3937 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 134,000
3	Unclassified.....	09900	1,000
4	Current Expenses	13000	<u>765,000</u>
5	Total.....		\$ 900,000

180 - State Board of Education –

School Construction Fund

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2021 Org 0402

1	SBA Construction Grants	24000	\$ 35,845,818
2	Directed Transfer	70000	<u>1,371,182</u>
3	Total.....		\$ 37,217,000

4 The above appropriation for Directed Transfer (fund 3951,
5 appropriation 70000) shall be transferred to the School Building
6 Authority Fund (fund 3959) for the administrative expenses of the
7 School Building Authority.

181 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2021 Org 0404

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,134,522
3	Current Expenses	13000	244,100
4	Repairs and Alterations.....	6400	13,150
5	Equipment	07000	<u>26,000</u>
6	Total.....		\$ 1,417,772

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

182 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2021 Org 0432

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 226,624
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.....		\$ 1,218,193

DEPARTMENT OF ENVIRONMENTAL PROTECTION

183 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2021 Org 0312

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 842,305
3	Current Expenses	13000	2,060,457
4	Repairs and Alterations.....	06400	1,000
5	Equipment	07000	5,000
6	Other Assets.....	69000	<u>4,403</u>
7	Total.....		\$ 2,913,165

*184 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 779,766
3	Current Expenses	13000	155,969
4	Repairs and Alterations.....	06400	500
5	Equipment.....	07000	1,505
6	Unclassified.....	09900	8,072
7	Other Assets.....	69000	<u>2,000</u>
8	Total.....		\$ 947,812

*185 - Division of Environmental Protection –
Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 950,135
3	Current Expenses	13000	1,026,863
4	Repairs and Alterations.....	06400	13,000
5	Equipment.....	07000	53,105
6	Unclassified.....	09900	14,647
7	Other Assets.....	69000	<u>20,000</u>
8	Total.....		\$ 2,077,750

*186 - Division of Environmental Protection –
Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,627,573
3	Current Expenses	13000	16,185,006
4	Repairs and Alterations.....	06400	79,950
5	Equipment	07000	130,192
6	Other Assets	69000	<u>32,000</u>
7	Total.....		\$ 18,054,721

187 - Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 143,906
3	Current Expenses	13000	<u>356,094</u>
4	Total.....		\$ 500,000

188 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,486,896
3	Current Expenses	13000	1,249,758
4	Repairs and Alterations.....	06400	40,600
5	Equipment	07000	8,000
6	Unclassified.....	09900	44,700
7	Other Assets	69000	<u>15,000</u>
8	Total.....		\$ 4,844,954

189 - Division of Environmental Protection –

Mining and Reclamation Operations Fund

(WV Code Chapter 22)

Fund 3324 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,566,280
3	Current Expenses	13000	2,202,231
4	Repairs and Alterations.....	06400	60,260
5	Equipment.....	07000	83,000
6	Unclassified.....	09900	920
7	Other Assets.....	69000	<u>57,500</u>
8	Total.....		\$ 5,970,191

*190 - Division of Environmental Protection –**Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 476,417
3	Current Expenses	13000	318,420
4	Repairs and Alterations.....	06400	5,350
5	Equipment.....	07000	3,610
6	Unclassified.....	09900	7,520
7	Other Assets.....	69000	<u>3,500</u>
8	Total.....		\$ 814,817

*191 - Division of Environmental Protection –**Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 598,154

2020]

HOUSE OF DELEGATES

2029

3	Current Expenses	13000		767,905
4	Repairs and Alterations.....	06400		7,014
5	Equipment.....	07000		9,000
6	Unclassified.....	09900		10,616
7	Other Assets.....	69000		<u>3,500</u>
8	Total.....		\$	1,396,189

*192 - Division of Environmental Protection –**Solid Waste Reclamation and**Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2021 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	825,811
3	Current Expenses	13000		3,604,737
4	Repairs and Alterations.....	06400		25,000
5	Equipment.....	07000		31,500
6	Unclassified.....	09900		22,900
7	Buildings.....	25800		500
8	Other Assets.....	69000		<u>1,000</u>
9	Total.....		\$	4,511,448

*193 - Division of Environmental Protection –**Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2021 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	3,274,054
3	Current Expenses	13000		940,229
4	Repairs and Alterations.....	06400		30,930
5	Equipment.....	07000		23,356
6	Unclassified.....	09900		31,145
7	Other Assets.....	69000		<u>25,554</u>
8	Total.....		\$	4,325,268

*194 - Division of Environmental Protection –**Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 5,934,859
3	Current Expenses	13000	1,469,467
4	Repairs and Alterations.....	06400	84,045
5	Equipment.....	07000	103,601
6	Unclassified.....	09900	70,572
7	Other Assets.....	69000	<u>52,951</u>
8	Total.....		\$ 7,715,495

*195 - Division of Environmental Protection –**Environmental Laboratory**Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 352,834
3	Current Expenses	13000	201,146
4	Repairs and Alterations.....	06400	1,000
5	Unclassified.....	09900	1,120
6	Other Assets.....	69000	<u>163,000</u>
7	Total.....		\$ 719,100

*196 - Division of Environmental Protection –**Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2021 Org 0313

1 Current Expenses 13000 \$ 5,182,076

197 - Division of Environmental Protection –

Litter Control Fund

(WV Code Chapter 22)

Fund 3486 FY 2021 Org 0313

1 Current Expenses 13000 \$ 60,000

198 - Division of Environmental Protection –

Recycling Assistance Fund

(WV Code Chapter 22)

Fund 3487 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....00100	\$	660,575
3	Current Expenses 13000		2,754,258
4	Repairs and Alterations.....06400		800
5	Equipment.....07000		500
6	Unclassified.....09900		400
7	Other Assets.....69000		2,500
8	Total.....	\$	<u>3,419,033</u>

199 - Division of Environmental Protection –

Mountaintop Removal Fund

(WV Code Chapter 22)

Fund 3490 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,250,562
3	Current Expenses 13000		642,934
4	Repairs and Alterations.....06400		30,112
5	Equipment.....07000		23,500
6	Unclassified.....09900		1,180

7	Other Assets.....	69000		<u>11,520</u>
8	Total.....		\$	1,959,808

200 - Oil and Gas Conservation Commission –

Special Oil and Gas Conservation Fund

(WV Code Chapter 22C)

Fund 3371 FY 2021 Org 0315

1	Personal Services and			
2	Employee Benefits.....	00100	\$	162,161
3	Current Expenses	13000		161,225
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		9,481
6	Other Assets.....	69000		<u>1,500</u>
7	Total.....		\$	335,367

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

201 - Division of Health –

Ryan Brown Addiction Prevention and Recovery Fund

(WV Code Chapter 19)

Fund 5111 FY 2021 Org 0506

1	Current Expenses	13000	\$	10,667,392
---	------------------------	-------	----	------------

202 - Division of Health –

The Vital Statistics Account

(WV Code Chapter 16)

Fund 5144 FY 2021 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	938,484
3	Unclassified.....	09900		15,500
4	Current Expenses	13000		<u>2,757,788</u>

5 Total..... \$ 3,711,772

203 - Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2021 Org 0506

1	Institutional Facilities Operations	33500	\$	35,555,221
2	Medical Services			
3	Trust Fund – Transfer	51200		<u>27,800,000</u>
4	Total.....		\$	63,355,221

5 The total amount of these appropriations shall be paid from the
6 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 2021, organization 0506, for the operation of the institutional
11 facilities. The Secretary of the Department of Health and Human
12 Resources is authorized to utilize up to ten percent of the funds
13 from the appropriation for Institutional Facilities Operations to
14 facilitate cost effective and cost saving services at the community
15 level.

16 Necessary funds from the above appropriation may be used for
17 medical facilities operations, either in connection with this fund or
18 in connection with the appropriation designated Institutional
19 Facilities Operations in the Consolidated Medical Service Fund
20 (fund 0525, organization 0506).

204 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 936,712
3	Unclassified.....	09900	18,114
4	Current Expenses	13000	<u>1,803,327</u>
5	Total.....		\$ 2,758,153

*205 - Division of Health –**The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 645,446
3	Unclassified.....	09900	7,113
4	Current Expenses	13000	<u>98,247</u>
5	Total.....		\$ 750,806

*206 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2021 Org 0506

1	Current Expenses	13000	\$ 9,740
---	------------------------	-------	----------

*207 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 19,100

3	Unclassified.....	09900		373
4	Current Expenses	13000		<u>17,875</u>
5	Total.....		\$	37,348

208 - Division of Health –

West Virginia Birth-to-Three Fund

(WV Code Chapter 16)

Fund 5214 FY 2021 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	691,978
3	Unclassified.....	09900		223,999
4	Current Expenses	13000		<u>28,053,549</u>
5	Total.....		\$	28,969,526

209 - Division of Health –

Tobacco Control Special Fund

(WV Code Chapter 16)

Fund 5218 FY 2021 Org 0506

1	Current Expenses	13000	\$	7,579
---	------------------------	-------	----	-------

210 - Division of Health –

Medical Cannabis Program Fund

(WV Code Chapter 16A)

Fund 5420 FY 2021 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	509,658
3	Current Expenses	13000		<u>2,046,040</u>
4	Total.....		\$	2,555,698

211 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2021 Org 0507

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,345,380
3	Unclassified.....	09900	20,100
4	Current Expenses	13000	<u>785,445</u>
5	Total.....		\$ 2,150,925

6 The above appropriation is to be expended in accordance with
7 and pursuant to the provisions of W.Va. Code §16-29B and from
8 the special revolving fund designated Health Care Cost Review
9 Fund.

212 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2021 Org 0507

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 829,798
3	Current Expenses	13000	<u>474,967</u>
4	Total.....		\$ 1,304,765

213 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2021 Org 0511

1	Medical Services.....	18900	\$ 213,594,315
---	-----------------------	-------	----------------

2	Medical Services		
3	Administrative Costs	78900	<u>242,287</u>
4	Total.....		\$ 213,836,602

5 The above appropriation for Medical Services Administrative
6 Costs (fund 5090, appropriation 78900) shall be transferred to a
7 special revenue account in the treasury for use by the Department
8 of Health and Human Resources for administrative purposes. The
9 remainder of all moneys deposited in the fund shall be transferred
10 to the Medical Services Program Fund (fund 5084).

214 - Division of Human Services –

Child Support Enforcement Fund

(WV Code Chapter 48A)

Fund 5094 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 24,809,509
3	Unclassified.....	09900	380,000
4	Current Expenses	13000	<u>12,810,491</u>
5	Total.....		\$ 38,000,000

215 - Division of Human Services –

Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2021 Org 0511

1	Medical Services.....	18900	\$ 82,227,707
2	Medical Services		
3	Administrative Costs	78900	<u>602,486</u>
4	Total.....		\$ 82,830,193

5 The above appropriation to Medical Services shall be used to
6 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: payment

9 of backlogged billings, funding for services to future federally
 10 mandated population groups and payment of the required state
 11 match for Medicaid disproportionate share payments. The
 12 remainder of all moneys deposited in the fund shall be transferred
 13 to the Division of Human Services accounts.

216 - Division of Human Services –

James “Tiger” Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2021 Org 0511

1	Unclassified.....	09900	\$	7,000
2	Current Expenses	13000		<u>393,000</u>
3	Total.....		\$	400,000

217 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2021 Org 0511

1	Current Expenses	13000	\$	900,000
---	------------------------	-------	----	---------

218 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2021 Org 0511

1	Current Expenses	13000	\$	500,000
---	------------------------	-------	----	---------

219 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2021 Org 0511

1	Current Expenses	13000	\$	1,500,000
---	------------------------	-------	----	-----------

220 - Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2021 Org 0511

1	Personal Services and			
2	Employee Benefits.....	00100	\$	10,000
3	Current Expenses	13000		<u>25,000</u>
4	Total.....		\$	35,000

DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY

221 - 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 2021 Org 0601

1	Current Expenses	13000	\$	32,000
---	------------------------	-------	----	--------

222 - State Armory Board –

General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2021 Org 0603

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,681,247
3	Current Expenses	13000		650,000

4	Repairs and Alterations.....	06400		385,652
5	Equipment.....	07000		250,000
6	Buildings.....	25800		770,820
7	Other Assets.....	69000		100,000
8	Land.....	73000		<u>200,000</u>
9	Total.....		\$	4,037,719

10 From the above appropriations, the Adjutant General may
 11 receive and expend funds to conduct operations and activities to
 12 include functions of the Military Authority. The Adjutant General
 13 may transfer funds between appropriations, except no funds may
 14 be transferred to Personal Services and Employee Benefits (fund
 15 6057, appropriation 00100).

223 - Division of Homeland Security

And Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 15)

Fund 6208 FY 2021 Org 0606

1	Current Expenses	13000	\$	80,000
---	------------------------	-------	----	--------

224 - Division of Homeland Security and

Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2021 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 close
 4 of fiscal year 2020 is hereby reappropriated for expenditure during
 5 the fiscal year 2021.

225 - *Division of Corrections and Rehabilitation –**Parolee Supervision Fees*

(WV Code Chapter 15A)

Fund 6362 FY 2021 Org 0608

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,118,697
3	Unclassified.....	09900	9,804
4	Current Expenses	13000	758,480
5	Equipment.....	07000	30,000
6	Other Assets.....	69000	<u>40,129</u>
7	Total.....		\$ 1,957,110

226 - *Division of Corrections and Rehabilitation –**Regional Jail and Correctional Facility Authority*

(WV Code Chapter 15A)

Fund 6675 FY 2021 Org 0608

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 544,798
3	Debt Service.....	04000	9,000,000
4	Current Expenses	13000	<u>245,472</u>
5	Total.....		\$ 9,790,270

227 - *West Virginia State Police –**Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2021 Org 0612

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,907,726
3	Current Expenses	13000	1,488,211
4	Repairs and Alterations.....	06400	204,500

5	Equipment.....	07000	3,770,751
6	Buildings.....	25800	534,000
7	Other Assets.....	69000	5,000
8	BRIM Premium.....	91300	<u>302,432</u>
9	Total.....		\$ 8,212,620

10 The total amount of these appropriations shall be paid from the
 11 special revenue fund out of fees collected for inspection stickers
 12 as provided by law.

228 - West Virginia State Police –

Forensic Laboratory Fund

(WV Code Chapter 15)

Fund 6511 FY 2021 Org 0612

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,600,000
3	Current Expenses	13000	90,000
4	Repairs and Alterations.....	06400	5,000
5	Equipment.....	07000	<u>545,000</u>
6	Total.....		\$ 2,240,000

229 - West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2021 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 the
 6 special revenue fund out of receipts collected pursuant to W.Va.
 7 Code §11-15-9a and 16 and paid into a revolving fund account in
 8 the State Treasury.

*230 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2021 Org 0612

1	Buildings	25800	\$	1,022,778
2	Land	73000		1,000
3	BRIM Premium.....	91300		<u>77,222</u>
4	Total.....		\$	1,101,000

*231 - West Virginia State Police –**Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2021 Org 0612

1	Current Expenses	13000	\$	225,000
2	Repairs and Alterations.....	06400		20,000
3	Equipment	07000		250,000
4	Buildings	25800		40,000
5	Other Assets	69000		45,000
6	BRIM Premium.....	91300		<u>5,000</u>
7	Total.....		\$	585,000

*232 - West Virginia State Police –**Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2021 Org 0612

1	Personal Services and			
2	Employee Benefits.....	00100	\$	256,629
3	Current Expenses	13000		51,443
4	Repairs and Alterations.....	06400		500
5	Equipment	07000		300,500

6	Other Assets.....	69000		300,500
7	BRIM Premium.....	91300		<u>18,524</u>
8	Total.....		\$	928,096

233 - West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2021 Org 0612

1	Current Expenses	13000	\$	8,300
---	------------------------	-------	----	-------

234 - West Virginia State Police –

State Police Academy Post Exchange

(WV Code Chapter 15)

Fund 6544 FY 2021 Org 0612

1	Current Expenses	13000	\$	160,000
2	Repairs and Alterations.....	06400		<u>40,000</u>
3	Total.....		\$	200,000

235 - Fire Commission –

Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2021 Org 0619

1	Personal Services and			
2	Employee Benefits.....	00100	\$	3,480,533
3	Unclassified.....	09900		3,800
4	Current Expenses	13000		1,246,550
5	Repairs and Alterations.....	06400		58,500
6	Equipment.....	07000		140,800
7	BRIM Premium.....	91300		<u>65,000</u>
8	Total.....		\$	4,995,183

*236 - Division of Administrative Services –**WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2021 Org 0623

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 161,923
3	Unclassified.....	09900	750
4	Current Expenses	13000	1,846,250
5	Repairs and Alterations.....	06400	<u>1,000</u>
6	Total.....		\$ 2,009,923

*237 - Division of Administrative Services –**Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2021 Org 0623

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 23,840
3	Current Expenses	13000	<u>1,478,135</u>
4	Total.....		\$ 1,501,975

*238 - Division of Administrative Services –**Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2021 Org 0623

1	Current Expenses	13000	\$ 25,000
---	------------------------	-------	-----------

DEPARTMENT OF REVENUE*239 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2021 Org 0303

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,703,057
3	Current Expenses	13000	650,475
4	Equipment.....	07000	<u>8,500</u>
5	Total.....		\$ 3,362,032

240 - Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2021 Org 0701

1	Retirement Systems –		
2	Unfunded Liability.....	77500	\$ 20,000,000

3 The above appropriation for Retirement System – Unfunded
4 Liability shall be transferred to the Consolidated Public Retirement
5 Board – West Virginia Teachers Retirement System Employers
6 School Aid Formula Funds Holding Account Fund (fund 2606).

241 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2021 Org 0701

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 25,000
3	Unclassified.....	09900	680
4	Current Expenses	13000	42,000
5	Repairs and Alterations.....	06400	120
6	Equipment.....	07000	<u>200</u>
7	Total.....		\$ 68,000

242 - Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2021 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 25,928
3	Current Expenses	13000	<u>7,717</u>
4	Total.....		\$ 33,645

243 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2021 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 696,428
3	Unclassified.....	09900	8,500
4	Current Expenses	13000	273,297
5	Repairs and Alterations.....	06400	7,000
6	Equipment.....	07000	<u>5,000</u>
7	Total.....		\$ 990,225

244 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2021 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 268,973
3	Current Expenses	13000	<u>5,406</u>
4	Total.....		\$ 274,379

245 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2021 Org 0702

1	Current Expenses	13000	\$	35,000
2	Equipment	07000		<u>15,000</u>
3	Total		\$	50,000

246 - Tax Division –

Local Sales Tax and Excise Tax

Administration Fund

(WV Code Chapter 11)

Fund 7099 FY 2021 Org 0702

1	Personal Services and			
2	Employee Benefits	00100	\$	1,543,527
3	Unclassified	09900		10,000
4	Current Expenses	13000		784,563
5	Repairs and Alterations	06400		1,000
6	Equipment	07000		<u>5,000</u>
7	Total		\$	2,344,090

247 - State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2021 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.

248 - State Budget Office –

Public Employees Insurance Agency Financial Stability Fund

(WV Code Chapter 11B)

Fund 7401 FY 2021 Org 0703

1	Retiree Premium Offset	80101	\$	5,000,000
2	PEIA Reserve.....	80102		<u>10,000,000</u>
3	Total.....		\$	15,000,000

4 The above appropriation shall be transferred to special revenue
5 funds to be utilized by the West Virginia Public Employees
6 Insurance Agency for the purposes of permitting the PEIA Finance
7 Board to offset \$5 million in retiree premium increases.
8 Additionally, \$10 million will be put into a reserve fund to stabilize
9 and preserve the future solvency of PEIA. Such amount shall not
10 be included in the calculation of the plan year aggregate premium
11 cost-sharing percentages between employers and employees.

249 - Insurance Commissioner –

Examination Revolving Fund

(WV Code Chapter 33)

Fund 7150 FY 2021 Org 0704

1	Personal Services and			
2	Employee Benefits.....	00100	\$	748,764
3	Current Expenses	13000		1,357,201
4	Repairs and Alterations.....	06400		3,000
5	Equipment.....	07000		81,374
6	Buildings.....	25800		8,289
7	Other Assets.....	69000		<u>11,426</u>
8	Total.....		\$	2,210,054

250 - Insurance Commissioner –

Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2021 Org 0704

1	Personal Services and			
2	Employee Benefits.....	00100	\$	571,976
3	Current Expenses	13000		202,152
4	Repairs and Alterations.....	06400		5,000

5	Equipment.....	07000	34,225
6	Buildings.....	25800	4,865
7	Other Assets.....	69000	<u>19,460</u>
8	Total.....		\$ 837,678

251 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2021 Org 0704

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 24,169,021
3	Current Expenses.....	13000	8,797,758
4	Repairs and Alterations.....	06400	68,614
5	Equipment.....	07000	1,728,240
6	Buildings.....	25800	25,000
7	Other Assets.....	69000	<u>340,661</u>
8	Total.....		\$ 35,129,294

252 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2021 Org 0704

1	Employee Benefits.....	01000	\$ 50,000
2	Current Expenses.....	13000	<u>250,500,000</u>
3	Total.....		\$ 250,550,000

253 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(WV Code Chapter 23)

Fund 7163 FY 2021 Org 0704

1	Current Expenses.....	13000	\$ 15,000,000
---	-----------------------	-------	---------------

*254 - Insurance Commissioner –**Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2021 Org 0704

1	Current Expenses	13000	\$	9,000,000
---	------------------------	-------	----	-----------

*255 - Insurance Commissioner –**Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2021 Org 0704

1	Current Expenses	13000	\$	14,000,000
---	------------------------	-------	----	------------

256 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2021 Org 0706

1	Personal Services and			
2	Employee Benefits.....	00100	\$	282,589
3	Current Expenses	13000		144,844
4	Equipment.....	07000		100
5	Total.....		\$	427,533

*257 - Racing Commission –**Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2021 Org 0707

	Medical Expenses – Total.....	24500	\$	57,000
--	-------------------------------	-------	----	--------

The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

258 - Racing Commission –

Administration and Promotion Account

(WV Code Chapter 19)

Fund 7304 FY 2021 Org 0707

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 264,564
3	Current Expenses	13000	85,433
4	Other Assets.....	69000	<u>5,000</u>
5	Total.....		\$ 354,997

259 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7305 FY 2021 Org 0707

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,352,306
3	Current Expenses	13000	497,284
4	Repairs and Alterations.....	06400	5,000
5	Other Assets.....	69000	<u>40,000</u>
6	Total.....		\$ 2,894,590

260 - Racing Commission –

Administration, Promotion, Education, Capital Improvement

and Greyhound Adoption Programs

to include Spaying and Neutering Account

(WV Code Chapter 19)

Fund 7307 FY 2021 Org 0707

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 918,781
3	Current Expenses	13000	160,099
4	Other Assets.....	69000	<u>200,000</u>
5	Total.....		\$ 1,278,880

*261 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2021 Org 0708

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 147,213
3	Unclassified.....	09900	30,750
4	Current Expenses	13000	54,186
5	Repairs and Alterations.....	06400	7,263
6	Equipment.....	07000	10,000
7	Buildings	25800	100,000
8	Other Assets.....	69000	<u>100</u>
9	Total.....		\$ 349,512

10 To the extent permitted by law, four classified exempt positions
 11 shall be provided from Personal Services and Employee Benefits
 12 appropriation for field auditors.

262 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2021 Org 0708

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 5,790,574
3	Current Expenses	13000	2,890,577
4	Repairs and Alterations.....	06400	91,000

5	Equipment.....	07000	108,000
6	Buildings.....	25800	375,100
7	Purchase of Supplies for Resale.....	41900	76,500,000
8	Transfer Liquor Profits and Taxes	42500	21,200,000
9	Other Assets.....	69000	125,100
10	Land	73000	<u>100</u>
11	Total.....		\$ 107,080,451

12 The total amount of these appropriations shall be paid from a
 13 special revenue fund out of liquor revenues and any other revenues
 14 available.

15 The above appropriations include the salary of the
 16 commissioner and the salaries, expenses, and equipment of
 17 administrative offices, warehouses, and inspectors.

18 The above appropriations include funding for the
 19 Tobacco/Alcohol Education Program.

20 There is hereby appropriated from liquor revenues, in addition
 21 to the above appropriations as needed, the necessary amount for
 22 the purchase of liquor as provided by law and the remittance of
 23 profits and taxes to the General Revenue Fund.

263 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2021 Org 0933

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 10,500
3	Current Expenses	13000	<u>29,500</u>
4	Total.....		\$ 40,000

DEPARTMENT OF TRANSPORTATION

264 - Division of Motor Vehicles –

Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2021 Org 0802

2020]

HOUSE OF DELEGATES

2055

1	Current Expenses	13000	\$	189,000
---	------------------------	-------	----	---------

265 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2021 Org 0802

1	Personal Services and			
2	Employee Benefits.....	00100	\$	3,733,074
3	Current Expenses	13000		4,357,773
4	Repairs and Alterations.....	06400		16,000
5	Equipment.....	07000		75,000
6	Other Assets.....	69000		10,000
7	BRIM Premium.....	91300		<u>89,939</u>
8	Total.....		\$	<u>8,281,786</u>

266 - Division of Highways –

A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2021 Org 0803

1	Current Expenses	13000	\$	1,650,000
---	------------------------	-------	----	-----------

DEPARTMENT OF VETERANS' ASSISTANCE

267 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2021 Org 0613

1	Current Expenses	13000	\$	1,654,234
2	Other Assets.....	69000		<u>10,000</u>
3	Total.....		\$	<u>1,664,234</u>

268 - Department of Veterans' Assistance –

WV Veterans' Home –

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2021 Org 0618

1	Current Expenses	13000	\$	289,400
2	Repairs and Alterations.....	06400		<u>10,600</u>
3	Total.....		\$	300,000

BUREAU OF SENIOR SERVICES

269 - Bureau of Senior Services –

Community Based Service Fund

(WV Code Chapter 29)

Fund 5409 FY 2021 Org 0508

1	Personal Services and			
2	Employee Benefits.....	00100	\$	160,883
3	Current Expenses	13000		<u>10,348,710</u>
4	Total.....		\$	10,509,593

5 The total amount of these appropriations are funded from annual
6 table game license fees to enable the aged and disabled citizens of
7 West Virginia to stay in their homes through the provision of home
8 and community-based services.

HIGHER EDUCATION POLICY COMMISSION

270 - 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 2021 Org 0442

1	Debt Service.....	04000	\$ 27,713,123
2	General Capital Expenditures	30600	5,000,000
3	Facilities Planning		
4	and Administration	38600	<u>441,111</u>
5	Total.....		\$ 33,154,234

6 The total amount of these appropriations shall be paid from the
7 Special Capital Improvement Fund created in W.Va. Code §18B-
8 10-8. Projects are to be paid on a cash basis and made available on
9 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.

271 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2021 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay (fund 4906, appropriation 51100) at the close of the
3 fiscal year 2020 is hereby reappropriated for expenditure during the
4 fiscal year 2021.

5 The appropriation shall be paid from available unexpended cash
6 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 pursuant
12 to W.Va. Code §18-12B-8, which have since been refunded.

272 - *Community and Technical College –*

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2021 Org 0442

1 Any unexpended balance remaining in the appropriation for
 2 Capital Improvements – Total (fund 4908, appropriation 95800) at
 3 the close of fiscal year 2020 is hereby reappropriated for
 4 expenditure during the fiscal year 2021.

5 The total amount of this appropriation shall be paid from the
 6 sale of the Series 2017 Community and Technical College Capital
 7 Improvement Refunding Revenue Bonds and anticipated interest
 8 earnings.

273 - *West Virginia University –*

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2021 Org 0463

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 10,764,347
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.....		\$ 16,425,647

MISCELLANEOUS BOARDS AND COMMISSIONS

274 - *Board of Barbers and Cosmetologists –*

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2021 Org 0505

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 543,993
3	Current Expenses	13000	<u>239,969</u>
4	Total.....		\$ 783,962

5 The total amount of these appropriations shall be paid from a
6 special revenue fund out of collections made by the Board of
7 Barbers and Cosmetologists as provided by law.

275 - Hospital Finance Authority –

Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2021 Org 0509

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 93,279
3	Unclassified.....	09900	1,501
4	Current Expenses	13000	<u>55,328</u>
5	Total.....		\$ 150,108

6 The total amount of these appropriations shall be paid from the
7 special revenue fund out of fees and collections as provided by
8 Article 29A, Chapter 16 of the Code.

276 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2021 Org 0906

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 495,505
3	Current Expenses	13000	<u>107,700</u>
4	Total.....		\$ 603,205

277 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2021 Org 0907

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,300,612
3	Current Expenses	13000	312,655
4	Repairs and Alterations.....	06400	3,000
5	Equipment.....	07000	25,000
6	Other Assets.....	69000	<u>4,500</u>
7	Total.....		\$ 1,645,767

278 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2021 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 12,481,921
3	Unclassified.....	09900	147,643
4	Current Expenses	13000	2,572,202
5	Repairs and Alterations.....	06400	55,000
6	Equipment.....	07000	160,000
7	Buildings	25800	10
8	PSC Weight Enforcement.....	34500	4,605,652
9	Debt Payment/Capital Outlay	52000	350,000
10	Land	73000	10
11	BRIM Premium.....	91300	<u>172,216</u>
12	Total.....		\$ 20,544,654

13 The total amount of these appropriations shall be paid from a
14 special revenue fund out of collections for special license fees from
15 public service corporations as provided by law.

16 The Public Service Commission is authorized to transfer up to
17 \$500,000 from this fund to meet the expected deficiencies in the
18 Motor Carrier Division (fund 8625, org 0926) due to the
19 amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled
20 House Bill Number 2715, Regular Session, 1997.

279 - *Public Service Commission –**Gas Pipeline Division –**Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2021 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 294,658
3	Unclassified.....	09900	3,851
4	Current Expenses	13000	93,115
5	Repairs and Alterations.....	06400	<u>4,000</u>
6	Total.....		\$ 395,624

7 The total amount of these appropriations shall be paid from a
8 special revenue fund out of receipts collected for or by the Public
9 Service Commission pursuant to and in the exercise of regulatory
10 authority over pipeline companies as provided by law.

280 - *Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2021 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,377,514
3	Unclassified.....	09900	29,233
4	Current Expenses	13000	577,557
5	Repairs and Alterations.....	06400	23,000
6	Equipment.....	07000	<u>50,000</u>
7	Total.....		\$ 3,057,304

8 The total amount of these appropriations shall be paid from a
9 special revenue fund out of receipts collected for or by the Public
10 Service Commission pursuant to and in the exercise of regulatory
11 authority over motor carriers as provided by law.

281 - *Public Service Commission –*

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2021 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 772,994
3	Current Expenses	13000	276,472
4	Equipment.....	07000	9,872
5	BRIM Premium.....	91300	<u>4,660</u>
6	Total.....		\$ 1,063,998

7 The total amount of these appropriations shall be supported by
8 cash from a special revenue fund out of collections made by the
9 Public Service Commission.

282 - *Real Estate Commission –*

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2021 Org 0927

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 607,098
3	Current Expenses	13000	293,122
4	Repairs and Alterations.....	06400	2,500
5	Equipment.....	07000	<u>5,000</u>
6	Total.....		\$ 907,720

7 The total amount of these appropriations shall be paid out of
8 collections of license fees as provided by law.

283 - *WV Board of Examiners for Speech-Language*

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2021 Org 0930

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 91,513
3	Current Expenses	13000	63,499
4	Total.....		<u>\$ 155,012</u>

*284 - WV Board of Respiratory Care –**Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2021 Org 0935

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 94,050
3	Current Expenses	13000	54,137
4	Repairs and Alterations.....	06400	400
5	Total.....		<u>\$ 148,587</u>

*285 - WV Board of Licensed Dietitians –**Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2021 Org 0936

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 20,219
3	Current Expenses	3000	20,250
4	Total.....		<u>\$ 40,469</u>

*286 - Massage Therapy Licensure Board –**Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2021 Org 0938

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 109,555
3	Current Expenses	13000	42,448
4	Total.....		<u>\$ 152,003</u>

287 - Board of Medicine –

Medical Licensing Board Fund

(WV Code Chapter 30)

Fund 9070 FY 2021 Org 0945

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,378,807
3	Current Expenses	3000	1,108,789
4	Repairs and Alterations.....	06400	8,000
5	Total.....		<u>\$ 2,495,596</u>

288 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2021 Org 0947

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 6,856,239
3	Unclassified.....	09900	232,000
4	Current Expenses	13000	13,662,210
5	Repairs and Alterations.....	06400	300
6	Equipment.....	07000	302,000
7	Buildings	25800	2,000
8	Other Assets.....	69000	203,500
9	Total.....		<u>\$ 21,258,249</u>

289 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2021 Org 0950

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 832,889
3	Unclassified.....	09900	14,850
4	Current Expenses	13000	605,714
5	BRIM Premium.....	91300	31,547
6	Fees of Custodians, Fund		
7	Advisors and Fund Managers	93800	<u>3,500,000</u>
8	Total.....		\$ 4,985,000

9 There is hereby appropriated from this fund, in addition to the
10 above appropriation if needed, an amount of funds necessary for
11 the Board of Treasury Investments to pay the fees and expenses of
12 custodians, fund advisors and fund managers for the consolidated
13 fund of the State as provided in Article 6C, Chapter 12 of the Code.

14 The total amount of these appropriations shall be paid from the
15 special revenue fund out of fees and collections as provided by law.

16 Total TITLE II, Section 3 – Other Funds
17 (Including claims
18 against the state) \$ 1,514,818,528

1 **Sec. 4. Appropriations from lottery net profits.** — Net profits
2 of the lottery are to be deposited by the Director of the Lottery to
3 the following accounts in the amounts indicated. The Director of
4 the Lottery shall prorate each deposit of net profits in the
5 proportion the appropriation for each account bears to the total of
6 the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund 3963,
8 and Fund 4908 pursuant to W. Va. Code §29-22-18, the Director of
9 the Lottery shall make available from the remaining net profits of
10 the lottery any amounts needed to pay debt service for which an
11 appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund
12 3514, Fund 9067, and Fund 9068 and is authorized to transfer any
13 such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514,
14 Fund 9067, and Fund 9068 for that purpose. Upon receipt of
15 reimbursement of amounts so transferred, the Director of the
16 Lottery shall deposit the reimbursement amounts to the following
17 accounts as required by this section.

290 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2021 Org 0211

	Appropriation	Lottery Funds
1 Debt Service – Total	31000	\$ 10,000,000

291 - West Virginia Development Office –

West Virginia Tourism Office

(WV Code Chapter 5B)

Fund 3067 FY 2021 Org 0304

1 Tourism – Telemarketing Center	46300	\$ 82,080
2 Tourism – Advertising (R).....	61800	2,422,407
3 Tourism – Operations (R).....	66200	<u>4,227,938</u>
4 Total.....		\$ 6,732,425

5 Any unexpended balances remaining in the appropriations for
 6 Tourism – Advertising (fund 3067, appropriation 61800), and
 7 Tourism – Operations (fund 3067, appropriation 66200) at the
 8 close of the fiscal year 2020 are hereby reappropriated for
 9 expenditure during the fiscal year 2021.

292 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2021 Org 0310

1 Personal Services and		
2 Employee Benefits.....	00100	\$ 2,428,178
3 Current Expenses	13000	26,900
4 Pricketts Fort State Park.....	32400	106,560
5 Non-Game Wildlife (R).....	52700	386,935

6	State Parks and Recreation		
7	Advertising (R).....	61900	<u>494,578</u>
8	Total.....		\$ 3,443,151

9 Any unexpended balances remaining in the appropriations for
 10 Unclassified (fund 3267, appropriation 09900), Capital Outlay –
 11 Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund
 12 3267, appropriation 52700), and State Parks and Recreation
 13 Advertising (fund 3267, appropriation 61900) at the close of the
 14 fiscal year 2020 are hereby reappropriated for expenditure during
 15 the fiscal year 2021.

293 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2021 Org 0402

1	FBI Checks.....	37200	\$ 116,548
2	Vocational Education		
3	Equipment Replacement.....	39300	800,000
4	Assessment Program (R).....	39600	3,016,444
5	Literacy Project.....	89900	350,000
6	21 st Century Technology		
7	Infrastructure Network		
8	Tools and Support (R)	93300	<u>14,600,383</u>
9	Total.....		\$ 18,883,375

10 Any unexpended balances remaining in the appropriations for
 11 Unclassified (fund 3951, appropriation 09900), Current Expenses
 12 (fund 3951, appropriation 13000), Assessment Program (fund
 13 3951, appropriation 39600), and 21st Century Technology
 14 Infrastructure Network Tools and Support (fund 3951,
 15 appropriation 93300) at the close of the fiscal year 2020 are hereby
 16 reappropriated for expenditure during the fiscal year 2021.

294 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2021 Org 0404

1	Debt Service – Total	31000	\$	15,320,363
2	Directed Transfer	70000		<u>2,679,637</u>
3	Total.....		\$	18,000,000

4 The School Building Authority shall have the authority to
 5 transfer between the above appropriations in accordance with
 6 W.Va. Code §29-22-18.

*295 - Division of Culture and History –**Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2021 Org 0432

1	Huntington Symphony	02700	\$	59,058
2	Preservation WV (R).....	09200		491,921
3	Fairs and Festivals (R)	12200		1,346,814
4	Commission for National and			
5	Community Service (R).....	19300		374,980
6	Archeological Curation/Capital			
7	Improvements (R).....	24600		36,276
8	Historic Preservation Grants (R).....	31100		368,428
9	West Virginia Public Theater.....	31200		120,019
10	Greenbrier Valley Theater	42300		115,000
11	Theater Arts of West Virginia.....	46400		90,000
12	Marshall Artists Series	51800		36,005
13	Grants for Competitive			
14	Arts Program (R)	62400		726,000
15	West Virginia State Fair.....	65700		31,241
16	Save the Music	68000		24,000
17	Contemporary American			
18	Theater Festival	81100		57,281
19	Independence Hall	81200		27,277
20	Mountain State Forest Festival	86400		38,187
21	WV Symphony.....	90700		59,058

22	Wheeling Symphony.....	90800	59,058
23	Appalachian Children's Chorus.....	91600	<u>54,554</u>
24	Total.....		\$ 4,115,157

25 From the above appropriation for Preservation West Virginia
 26 (fund 3534, appropriation 09200) funding shall be provided to the
 27 African-American Heritage Family Tree Museum (Fayette)
 28 \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour
 29 County Arts and Humanities Council \$891, Beckley Main Street
 30 (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970,
 31 Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society
 32 (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne)
 33 \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of
 34 Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer)
 35 \$62,532, Collis P. Huntington Railroad Historical Society (Cabell)
 36 \$5,941, Country Music Hall of Fame and Museum (Marion)
 37 \$4,159, First Stage Children's Theater Company \$1,188, Flannigan
 38 Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral)
 39 \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason)
 40 \$2,970, General Adam Stephen Memorial Foundation (Berkeley)
 41 \$11,006, Grafton Mother's Day Shrine Committee (Taylor)
 42 \$8,749, Hardy County Tour and Crafts Association \$11,881,
 43 Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum
 44 & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette)
 45 \$3,267, Historic Middleway Conservancy (Jefferson) \$594,
 46 Jefferson County Black History Preservation Society \$2,970,
 47 Jefferson County Historical Landmark Commission \$4,753,
 48 Maddie Carroll House (Cabell) \$4,455, Marshall County Historical
 49 Society \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day
 50 Patriotic Exercise (Taylor) \$20,000, Morgantown Theater
 51 Company (Monongalia) \$11,881, Mountaineer Boys' State
 52 (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188,
 53 Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera
 54 House Theater Company (Jefferson) \$8,911, Parkersburg Arts
 55 Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564,
 56 Raleigh County All Wars Museum \$5,941, Rhododendron Girl's
 57 State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock
 58 Program \$2,970, Society for the Preservation of McGrew House
 59 (Preston) \$2,079, Southern West Virginia Veterans' Museum

60 \$3,393, Summers County Historic Landmark Commission \$2,970,
61 Those Who Served War Museum (Mercer) \$2,376, Three Rivers
62 Avian Center (Summers) \$5,311, Veterans Committee for Civic
63 Improvement of Huntington (Wayne) \$2,970, West Virginia
64 Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of
65 Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker)
66 \$59,406, Youth Museum of Southern West Virginia (Raleigh)
67 \$7,129, Z.D. Ramsdell House (Wayne) \$720.

68 From the above appropriation for Fairs and Festivals (fund
69 3534, appropriation 12200) funding shall be provided to the A
70 Princeton 4th (Mercer) \$1,800, African-American Cultural
71 Heritage Festival (Jefferson) \$2,970, Alderson 4th of July
72 Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas)
73 \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683,
74 American Civil War (Grant) \$3,127, American Legion Post 8
75 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle
76 Show (Lewis) \$891, Annual Don Redman Heritage Concert &
77 Awards (Jefferson) \$938, Annual Ruddle Park Jamboree
78 (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple
79 Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's
80 Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South
81 Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal
82 Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188,
83 Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe)
84 \$2,448, Barbour County Fair \$14,851, Barboursville Octoberfest
85 (Cabell) \$2,970, Battelle District Fair (Monongalia) \$2,970, Battle
86 of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial
87 Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673,
88 Belleville Homecoming (Wood) \$11,881, Bergoo Down Home
89 Days (Webster) \$1,485, Berkeley County Youth Fair \$10,990,
90 Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black
91 Heritage Festival (Harrison) \$3,564, Black Walnut Festival
92 (Roane) \$5,940, Blast from the Past (Upshur) \$1,440, Blue-Gray
93 Reunion (Barbour) \$2,079, Boone County Fair \$5,940, Boone
94 County Labor Day Celebration \$2,376, Bradshaw Fall Festival
95 (McDowell) \$1,188, Brandonville Heritage Day (Preston) \$1,048,
96 Braxton County Fair \$6,832, Braxton County Monster Fest / West
97 Virginia Autumn Festival \$1,485, Brooke County Fair \$2,079,

98 Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat
99 Festival (Preston) \$5,050, Buffalo 4th of July Celebration
100 (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington
101 Apple Harvest Festival (Mineral) \$17,821, Burlington Pumpkin
102 Harvest Festival (Raleigh) \$2,970, Burnsville Freedom Festival
103 (Braxton) \$1,407, Cabell County Fair \$5,940, Calhoun County
104 Wood Festival \$1,188, Campbell's Creek Community Fair
105 (Kanawha) \$1,485, Cape Coalwood Festival Association
106 (McDowell) \$1,485, Capon Bridge Founders Day Festival
107 (Hampshire) \$1,188, Capon Springs Ruritan 4th of July
108 (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188,
109 Cedarville Town Festival (Gilmer) \$684, Celebration of America
110 (Monongalia) \$3,564, Chapmanville Apple Butter Festival
111 (Logan) \$684, Chapmanville Fire Department 4th of July (Logan)
112 \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970,
113 Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River
114 Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891,
115 Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan
116 State Park-Civil War Celebration (Logan) \$4,752, Chilifest West
117 Virginia State Chili Championship (Cabell) \$1,563, Christmas In
118 Our Town (Marion) \$3,127, Christmas in Shepherdstown
119 (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970,
120 Christmas in the Park (Logan) \$14,851, City of Dunbar Critter
121 Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan)
122 \$4,456, City of New Martinsville Festival of Memories (Wetzel)
123 \$6,534, Clay County Golden Delicious Apple Festival \$4,158,
124 Clay District Fair (Monongalia) \$1,080, Coal Field Jamboree
125 (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158,
126 Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton
127 (Mercer) \$2,160, Culturefest World Music & Arts Festival
128 (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079,
129 Doddridge County Fair \$4,158, Durbin Days (Pocahontas) \$2,970,
130 Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of
131 July Celebration (Marion) \$684, Farm Safety Day (Preston)
132 \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick
133 Mountain Old Time Community Festival (Nicholas) \$2,880,
134 FestivALL Charleston (Kanawha) \$11,881, Flemington Day Fair
135 and Festival (Taylor) \$2,379, Follansbee Community Days
136 (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne)

137 \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History
138 (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival
139 (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970,
140 Franklin Fishing Derby (Pendleton) \$4,456, Freshwater Folk
141 Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe
142 Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund
143 for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485,
144 Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary
145 Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595,
146 Gilmer County Farm Show \$2,376, Grant County Arts Council
147 \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater
148 Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days
149 (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970,
150 Hampshire Civil War Celebration Days (Hampshire) \$684,
151 Hampshire County 4th of July Celebration \$11,881, Hampshire
152 County Fair \$5,002, Hancock County Oldtime Fair \$2,970, Hardy
153 County Commission - 4th of July \$5,940, Hatfield McCoy
154 Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy
155 Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970,
156 Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival
157 (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop
158 Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell)
159 \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River
160 Festival (Webster) \$891, Hometown Mountain Heritage Festival
161 (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hurricane
162 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair
163 (McDowell) \$891, Irish Heritage Festival of West Virginia
164 (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian
165 Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County
166 Fair \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and
167 Crafts Fair (Lewis) \$684, Jefferson County Fair Association
168 \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire)
169 \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie
170 Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown
171 Community Fair (Harrison) \$1,485, Junior Heifer Preview Show
172 (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July
173 Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford
174 (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377,
175 Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala

176 (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970,
177 Kingwood Downtown Street Fair and Heritage Days (Preston)
178 \$1,188, L.Z. Rainelle West Virginia Veterans Reunion
179 (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe
180 Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940,
181 Larry Joe Harless Community Center Spring Middle School Event
182 (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970,
183 Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall
184 Festival \$4,752, Lincoln County Winterfest \$2,970, Lindsie
185 Veterans' Day Parade (Monroe) \$720, Little Levels Heritage
186 Festival (Pocahontas) \$1,188, Lost Creek Community Festival
187 (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127,
188 Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley)
189 \$2,813, Mannington District Fair (Marion) \$3,564, Maple Syrup
190 Festival (Randolph) \$684, Marion County FFA Farm Fest \$1,485,
191 Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall
192 County Antique Power Show \$1,485, Mason County Fair \$2,970,
193 , Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-
194 Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County
195 \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's
196 Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival
197 (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782,
198 Mercer Bluestone Valley Fair (Mercer) \$1,188, Mercer County
199 Fair \$1,188, Mercer County Heritage Festival \$3,474, Milton
200 Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days
201 (Cabell) \$1,485, Mineral County Veterans Day Parade \$891,
202 Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion)
203 \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782,
204 Morgan County Fair-History Wagon \$891, Moundsville Bass
205 Festival (Marshall) \$2,376, Moundsville July 4th Celebration
206 (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485,
207 Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer)
208 \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson)
209 \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain
210 State Apple Harvest Festival (Berkeley) \$4,456, Mountain State
211 Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens
212 Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of
213 West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks
214 District VFD (Upshur) \$1,278, New Cumberland Christmas Parade

215 (Hancock) \$1,782, New Cumberland 4th of July (Hancock)
216 \$2,970, New River Bridge Day Festival (Fayette) \$23,762,
217 Nicholas County Fair \$2,970, Nicholas County Potato Festival
218 \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage
219 Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights
220 (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County
221 Country Fair \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio
222 Valley Beef Association (Wood) \$1,485, Ohio Valley Black
223 Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell)
224 \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor
225 Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood)
226 \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair
227 (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970,
228 Pendleton County 4-H Weekend \$1,188, Pendleton County
229 Committee for Arts \$8,910, Pendleton County Fair \$6,253,
230 Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th
231 of July Celebration (Grant) \$11,881, Petersburg HS Celebration
232 (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral)
233 \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival
234 (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel)
235 \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County
236 Agriculture Youth Fair \$2,970, Poca Heritage Days (Putnam)
237 \$1,782, Pocahontas County Pioneer Days \$4,159, Point Pleasant
238 Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival
239 (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563,
240 Princeton Street Fair (Mercer) \$2,970, Putnam County Fair \$2,970,
241 Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival
242 (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha)
243 \$1,485, Randolph County Community Arts Council \$1,782,
244 Randolph County Fair \$4,158, Randolph County Ramp and Rails
245 \$1,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson
246 Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier)
247 \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and
248 Exposition \$2,970, Ritchie County Pioneer Days \$684, River City
249 Festival (Preston) \$684, Roane County Agriculture Field Day
250 \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival
251 (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876,
252 Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor
253 Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier)

254 \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem
255 Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July
256 (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on
257 the Water (Wetzel) \$1,782, South Charleston Summerfest
258 (Kanawha) \$5,940, Southern Wayne County Fall Festival \$684,
259 Spirit of Grafton Celebration (Taylor) \$6,240, St. Albans City of
260 Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood)
261 \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson
262 Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall
263 Jackson's Roundhouse Raid (Berkeley) \$7,200, Storytelling
264 Festival (Lewis) \$400, Strawberry Festival (Upshur) \$17,821,
265 Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair
266 (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor
267 County Fair \$3,567, The Gathering at Sweet Creek (Wood) \$1,782,
268 Three Rivers Coal Festival (Marion) \$4,604, Thunder on the
269 Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of
270 Delbarton 4th of July Celebration (Mingo) \$1,782, Town of
271 Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville
272 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam
273 County Homecoming \$3,240, St. Albans Train Fest (Kanawha)
274 \$6,120, Treasure Mountain Festival (Pendleton) \$14,851, Tri-
275 County Fair (Grant) \$22,548, Tucker County Arts Festival and
276 Celebration \$10,692, Tucker County Fair \$2,821, Tucker County
277 Health Fair \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County
278 Fair \$3,088, Union Community Irish Festival (Barbour) \$648,
279 Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper
280 Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair
281 (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell)
282 \$938, Vietnam Veterans of America # 949 Christmas Party
283 (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970,
284 War Homecoming Fall Festival (McDowell) \$891, Wardensville
285 Fall Festival (Hardy) \$2,970, Wayne County Fair \$2,970, Wayne
286 County Fall Festival \$2,970, Webster County Fair \$3,600, Webster
287 County Wood Chopping Festival \$8,910, Webster Wild Water
288 Weekend (Webster) \$1,188, Weirton July 4th Celebration
289 (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900,
290 Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg
291 Apple Festival of Brooke County \$2,970, West Virginia
292 Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut

293 Festival (Preston) \$684, West Virginia Coal Festival (Boone)
 294 \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia
 295 Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion
 296 Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad
 297 Museum (Mercer) \$1,800, West Virginia Fair and Exposition
 298 (Wood) \$4,812, West Virginia Fireman’s Rodeo (Fayette) \$1,485,
 299 West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia
 300 Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford
 301 Association (Braxton) \$891, West Virginia Pumpkin Festival
 302 (Cabell) \$5,940, West Virginia Water Festival - City of Hinton
 303 (Summers) \$9,144, Weston VFD 4th of July Firemen Festival
 304 (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel
 305 County Town and Country Days \$10,098, Wheeling Celtic Festival
 306 (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling
 307 Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat
 308 Regatta (Ohio) \$11,881, Whipple Community Action (Fayette)
 309 \$1,485, Wine Festival and Mountain Music Event (Harrison)
 310 \$2,970, Wirt County Fair \$1,485, Wirt County Pioneer Days
 311 \$1,188, Wyoming County Civil War Days \$1,296, Youth
 312 Stockman Beef Expo (Lewis) \$1,188.

313 Any unexpended balances remaining in the appropriations
 314 for Commission for National and Community Service (fund 3534,
 315 appropriation 19300), Archeological Curation/Capital
 316 Improvements (fund 3534, appropriation 24600), Historic
 317 Preservation Grants (fund 3534, appropriation 31100), Grants for
 318 Competitive Arts Program (fund 3534, appropriation 62400), and
 319 Project ACCESS (fund 3534, appropriation 86500) at the close of
 320 the fiscal year 2020 are hereby reappropriated for expenditure
 321 during the fiscal year 2021.

296 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2021 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	Infomine Network.....	88400	<u>943,353</u>
6	Total.....		\$ 11,513,700

7 Any unexpended balance remaining in the appropriation for
 8 Libraries – Special Projects (fund 3559, appropriation 62500) at
 9 the close of fiscal year 2020 is hereby reappropriated for
 10 expenditure during the fiscal year 2021.

297 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2021 Org 0439

1 Any unexpended balance remaining in the appropriation for
 2 Capital Outlay and Maintenance (fund 3587, appropriation 75500)
 3 at the close of fiscal year 2020 is hereby reappropriated for
 4 expenditure during the fiscal year 2021.

298 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2021 Org 0508

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 209,640
3	Current Expenses	13000	332,284
4	Repairs and Alterations.....	06400	1,000
5	Local Programs Service		
6	Delivery Costs	20000	2,435,250
7	Silver Haired Legislature	20200	18,500
8	Transfer to Division of Human		
9	Services for Health Care and		
10	Title XIX Waiver for		
11	Senior Citizens.....	53900	4,615,503

12	Roger Tompkins Alzheimer's		
13	Respite Care.....	64300	2,302,016
14	WV Alzheimer's Hotline	72400	45,000
15	Regional Aged and Disabled		
16	Resource Center.....	76700	425,000
17	Senior Services Medicaid Transfer	87100	16,400,070
18	Legislative Initiatives		
19	for the Elderly	90400	9,671,239
20	Long Term Care Ombudsman	90500	297,226
21	BRIM Premium.....	91300	7,718
22	In-Home Services and Nutrition		
23	for Senior Citizens	91700	<u>6,095,941</u>
24	Total.....		\$ 42,856,387

25 Any unexpended balance remaining in the appropriation for
 26 Senior Citizen Centers and Programs (fund 5405, appropriation
 27 46200) at the close of the fiscal year 2020 is hereby reappropriated
 28 for expenditure during the fiscal year 2021.

29 Included in the above appropriation for Current Expenses (fund
 30 5405, appropriation 13000), is funding to support an in-home direct
 31 care workforce registry.

32 The above appropriation for Transfer to Division of Human
 33 Services for Health Care and Title XIX Waiver for Senior Citizens
 34 (appropriation 53900) along with the federal moneys generated
 35 thereby shall be used for reimbursement for services provided
 36 under the program.

299 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2021 Org 0441

1	RHI Program and Site Support (R)..... 03600	\$	1,912,491
2	RHI Program and Site Support –		
3	RHEP Program Administration 03700		146,653
4	RHI Program and Site Support –		
5	Grad Med Ed and		
6	Fiscal Oversight (R)..... 03800		88,913
7	Minority Doctoral Fellowship (R) 16600		129,604
8	Health Sciences Scholarship (R)..... 17600		225,527
9	Vice Chancellor for Health		
10	Sciences – Rural Health		
11	Residency Program (R)..... 60100		62,725
12	WV Engineering, Science, and		
13	Technology Scholarship		
14	Program..... 86800		<u>452,831</u>
15	Total.....	\$	3,018,744

16 Any unexpended balances remaining in the appropriations for
17 RHI Program and Site Support (fund 4925, appropriation 03600),
18 RHI Program and Site Support – Grad Med Ed and Fiscal
19 Oversight (fund 4925, appropriation 03800), Minority Doctoral
20 Fellowship (fund 4925, appropriation 16600), Health Sciences
21 Scholarship (fund 4925, appropriation 17600), and Vice
22 Chancellor for Health Sciences – Rural Health Residency Program
23 (fund 4925, appropriation 60100) at the close of fiscal year 2020
24 are hereby reappropriated for expenditure during the fiscal year
25 2021.

26 The above appropriation for WV Engineering, Science, and
27 Technology Scholarship Program (fund 4925, appropriation
28 86800) shall be transferred to the West Virginia Engineering,
29 Science and Technology Scholarship Fund (fund 4928, org 0441)
30 established by W.Va. Code §18C-6-1.

300 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2021 Org 0442

1 Debt Service – Total 31000 \$ 5,000,000

2 Any unexpended balance remaining in the appropriation for
3 Capital Outlay and Improvements – Total (fund 4908,
4 appropriation 84700) at the close of fiscal year 2020 is hereby
5 reappropriated for expenditure during the fiscal year 2021.

301 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2021 Org 0463

1	WVU Health Sciences –		
2	RHI Program and		
3	Site Support (R)	03500	\$ 1,181,728
4	MA Public Health Program and		
5	Health Science Technology (R).....	62300	52,445
6	Health Sciences Career		
7	Opportunities Program (R)	86900	336,987
8	HSTA Program (R)	87000	1,761,948
9	Center for Excellence in		
10	Disabilities (R).....	96700	<u>313,517</u>
11	Total.....		\$ 3,646,625

12 Any unexpended balances remaining in the appropriations for
13 WVU Health Sciences – RHI Program and Site Support (fund
14 4185, appropriation 03500), MA Public Health Program and
15 Health Science Technology (fund 4185, appropriation 62300),
16 Health Sciences Career Opportunities Program (fund 4185,
17 appropriation 86900), HSTA Program (fund 4185, appropriation
18 87000), and Center for Excellence in Disabilities (fund 4185,
19 appropriation 96700) at the close of fiscal year 2020 are hereby
20 reappropriated for expenditure during the fiscal year 2021.

302 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2021 Org 0471

1	Marshall Medical School –		
2	RHI Program and		
3	Site Support (R)	03300	\$ 427,075
4	Vice Chancellor for Health		
5	Sciences – Rural Health		
6	Residency Program (R).....	60100	<u>171,361</u>
7	Total.....		\$ 598,436

8 Any unexpended balances remaining in the appropriations for
9 Marshall Medical School – RHI Program and Site Support (fund
10 4896, appropriation 03300) and Vice Chancellor for Health
11 Sciences – Rural Health Residency Program (fund 4896,
12 appropriation 60100) at the close of fiscal year 2020 are hereby
13 reappropriated for expenditure during the fiscal year 2021.

14	Total TITLE II, Section 4 –		
15	Lottery Revenue.....		<u>\$ 127,808,000</u>

1 **Sec. 5. Appropriations from state excess lottery revenue**
2 **fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-
3 10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following
4 appropriations shall be deposited and disbursed by the Director of
5 the Lottery to the following accounts in this section in the amounts
6 indicated.

7 After first funding the appropriations required by W.Va. Code
8 §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-
9 25-22b, the Director of the Lottery shall provide funding from the
10 State Excess Lottery Revenue Fund for the remaining
11 appropriations in this section to the extent that funds are available.
12 In the event that revenues to the State Excess Lottery Revenue
13 Fund are sufficient to meet all the appropriations required made
14 pursuant to this section, then the Director of the Lottery shall then
15 provide the funds available for fund 5365, appropriation 18900.

*303 - Lottery Commission –
Refundable Credit*

Fund 7207 FY 2021 Org 0705

	Appro- priation	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 credit		
4 allowable under W.Va. Code §11-21-21. The amount of the		
5 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.		

*304 - Lottery Commission –
General Purpose Account*

Fund 7206 FY 2021 Org 0705

1 General Revenue Fund – Transfer	70011	\$ 65,000,000
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.		

*305 - Higher Education Policy Commission –
Education Improvement Fund*

Fund 4295 FY 2021 Org 0441

1 PROMISE Scholarship – Transfer.....	80000	\$ 29,000,000
2 The above appropriation shall be transferred to the PROMISE		
3 Scholarship Fund (fund 4296, org 0441) established by W.Va.		
4 Code §18C-7-7.		

5 The Legislature has explicitly set a finite amount of available
 6 appropriations and directed the administrators of the Program to
 7 provide for the award of scholarships within the limits of available
 8 appropriations.

306 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2021 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 fund
 4 as reimbursement of amounts transferred to the economic
 5 development project fund pursuant to section four of this title and
 6 W.Va. Code §29-22-18, subsection (f).

307 - Department of Education –

School Building Authority

Fund 3514 FY 2021 Org 0404

1 Debt Service – Total 31000 \$ 19,000,000

308 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2021 Org 0316

1 Directed Transfer 70000 \$ 46,000,000

2 The above appropriation shall be allocated pursuant to W.Va.
 3 Code §29-22-18d and §31-15-9.

309 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2021 Org 0441

- 1 Directed Transfer 70000 \$ 15,000,000
 2 The above appropriation shall be transferred to fund 4903, org
 3 0442 as authorized by Senate Concurrent Resolution No. 41.

310 - Division of Natural Resources –

State Park Improvement Fund

Fund 3277 FY 2021 Org 0310

1	Current Expenses (R).....	13000	\$	23,300
2	Repairs and Alterations (R)	06400		161,200
3	Equipment (R).....	07000		200,000
4	Buildings (R).....	25800		100,000
5	Other Assets (R).....	69000		<u>1,020,500</u>
6	Total.....		\$	<u>1,505,000</u>

- 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 Expenses
 12 (fund 3277, appropriation 13000), Buildings (fund 3277,
 13 appropriation 25800), and Other Assets (fund 3277, appropriation
 14 69000) at the close of the fiscal year 2020 are hereby
 15 reappropriated for expenditure during the fiscal year 2021.

311 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2021 Org 0944

1	Debt Service.....	04000	\$	2,032,000
---	-------------------	-------	----	-----------

312 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2021 Org 0944

1	Debt Service.....	04000	\$	4,395,000
---	-------------------	-------	----	-----------

313 - Racing Commission –

Fund 7308 FY 2021 Org 0707

1	Special Breeders Compensation			
2	(WVC §29-22-18a,			
3	subsection (l)	21800	\$	2,000,000

314 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2021 Org 0705

1	Parking Garage Fund – Transfer.....	70001	\$	500,000
2	2004 Capitol Complex Parking			
3	Garage Fund – Transfer	70002		216,478
4	Capitol Dome and Improvements			
5	Fund – Transfer.....	70003		1,796,256
6	Capitol Renovation and			
7	Improvement Fund – Transfer	70004		2,381,252
8	Development Office Promotion			
9	Fund – Transfer.....	70005		1,298,864
10	Research Challenge Fund –			
11	Transfer.....	70006		1,731,820
12	Tourism Promotion Fund – Transfer ...			
13	70007			4,808,142
14	Cultural Facilities and Capitol			
15	Resources Matching Grant			
16	Program Fund – Transfer.....	70008		1,250,535
17	State Debt Reduction			
18	Fund – Transfer.....	70010		20,000,000
19	General Revenue Fund –			
20	Transfer.....	70011		1,167,799
21	West Virginia Racing Commission			
22	Racetrack Video			
23	Lottery Account.....	70012		3,463,637
24	Historic Resort Hotel Fund	70013		24,010

25	Licensed Racetrack Regular		
26	Purse Fund	70014	<u>22,383,247</u>
27	Total.....	\$	61,022,040

315 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2021 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 2020 is hereby reappropriated for expenditure during the fiscal
 5 year 2021.

316 - Office of Technology

(WV Code Chapter 5A)

Fund 2532 FY 2021 Org 0231

1 Any unexpended balances remaining in the appropriations for
 2 Cyber Security (fund 2532, appropriation 99001), Enterprise Data
 3 Center (fund 2532, appropriation 99002), and Enterprise
 4 Telephony Modernization (fund 2532, appropriation 99003) at the
 5 close of the fiscal year 2020 is hereby reappropriated for
 6 expenditure during the fiscal year 2021.

317 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2021 Org 0307

1 Any unexpended balances remaining in the appropriations for
 2 Unclassified – Total (fund 3170, appropriation 09600),
 3 Recreational Grants or Economic Development Loans (fund 3170,
 4 appropriation 25300), and Connectivity Research and
 5 Development – Lottery Surplus (fund 3170, appropriation 92300)
 6 at the close of the fiscal year 2020 are hereby reappropriated for
 7 expenditure during the fiscal year 2021.

5 following amounts, as itemized, for expenditure during the fiscal
6 year 2021.

LEGISLATIVE

321 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2021 Org 2300

	Appro- priation		Federal Funds
1 Economic Loss Claim			
2 Payment Fund	33400	\$	1,400,000

JUDICIAL

322 - Supreme Court

Fund 8867 FY 2021 Org 2400

1 Personal Services and			
2 Employee Benefits	00100	\$	1,813,000
3 Current Expenses	13000		1,557,000
4 Repairs and Alterations	06400		100,000
5 Equipment	07000		250,000
6 Other Assets	69000		<u>280,000</u>
7 Total		\$	4,000,000

EXECUTIVE

323 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2021 Org 1400

1 Personal Services and			
2 Employee Benefits	00100	\$	2,628,780
3 Unclassified	09900		50,534
4 Current Expenses	13000		3,828,661

5	Repairs and Alterations.....	06400		650,000
6	Equipment.....	07000		910,500
7	Buildings.....	25800		1,000,000
8	Other Assets.....	69000		50,000
9	Land.....	73000		<u>500,000</u>
10	Total.....		\$	9,618,475

324 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2021 Org 1400

1	Personal Services and			
2	Employee Benefits.....	00100	\$	658,571
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.....		\$	923,316

325 - Department of Agriculture –

State Conservation Committee

(WV Code Chapter 19)

Fund 8783 FY 2021 Org 1400

1	Personal Services and			
2	Employee Benefits.....	00100	\$	97,250
3	Current Expenses.....	13000		<u>15,599,974</u>
4	Total.....		\$	15,697,224

326 - Department of Agriculture –

Land Protection Authority

Fund 8896 FY 2021 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

327 - Attorney General –

Medicaid Fraud Unit

Fund 8882 FY 2021 Org 1500

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,038,458
3	Unclassified.....	09900	15,336
4	Current Expenses	13000	456,638
5	Repairs and Alterations.....	06400	4,313
6	Equipment	07000	7,500
7	Other Assets.....	69000	<u>11,336</u>
8	Total.....		\$ 1,533,581

328 - Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2021 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 210,240
3	Unclassified.....	09900	7,484
4	Current Expenses	13000	415,727
5	Repairs and Alterations.....	06400	15,000
6	Other Assets.....	69000	<u>100,000</u>
7	Total.....		\$ 748,451

DEPARTMENT OF COMMERCE

329 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2021 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 1,640,060
Unclassified.....	09900	51,050
Current Expenses	13000	5,232,560
Repairs and Alterations.....	06400	155,795
Equipment.....	07000	100,000
Other Assets.....	69000	<u>1,808,300</u>
Total.....		\$ 8,987,765

330 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2021 Org 0306

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 54,432
3	Unclassified.....	09900	2,803
4	Current Expenses	13000	195,639
5	Repairs and Alterations.....	06400	5,000
6	Equipment.....	07000	7,500
7	Other Assets.....	69000	<u>15,000</u>
8	Total.....		\$ 280,374

331 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 789,921
3	Unclassified.....	09900	50,000
4	Current Expenses	13000	<u>4,504,019</u>
5	Total.....		\$ 5,343,940

332 - West Virginia Development Office –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 497,289
3	Repairs and Alterations.....	06400	250
4	Equipment.....	07000	6,000
5	Unclassified.....	09900	106,795
6	Current Expenses	13000	<u>10,069,166</u>
7	Total.....		\$ 10,679,500

333 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2021 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 409,251
3	Unclassified.....	09900	5,572
4	Current Expenses	13000	167,098
5	Repairs and Alterations.....	06400	<u>500</u>
6	Total.....		582,421

334 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2021 Org 0310

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 8,237,073
3	Unclassified.....	09900	107,693
4	Current Expenses	13000	7,887,660
5	Repairs and Alterations.....	06400	566,250
6	Equipment.....	07000	2,126,141
7	Administration	15500	50,325
8	Buildings.....	25800	951,000
9	Other Assets.....	69000	7,088,880
10	Land	73000	<u>2,893,920</u>
11	Total.....		\$ 29,908,942

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

(WV Code Chapter 22)

Fund 8709 FY 2021 Org 0314

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 642,799
3	Current Expenses	13000	<u>150,000</u>
4	Total.....		\$ 792,799

336 - *WorkForce West Virginia*

(WV Code Chapter 23)

Fund 8835 FY 2021 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 of
9 the Social Security Act, as amended, and the provisions of W.Va.
10 Code §21A-9-9, the above appropriation to Unclassified and
11 Current Expenses shall be used by WorkForce West Virginia for
12 the specific purpose of administration of the state's unemployment
13 insurance program or job service activities, subject to each and
14 every restriction, limitation or obligation imposed on the use of the
15 funds by those federal and state statutes.

337 - *Office of Energy*

(WV Code Chapter 5B)

Fund 8892 FY 2021 Org 0328

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 426,385
3	Unclassified.....	09900	7,350
4	Current Expenses	13000	<u>2,816,076</u>
5	Total.....		\$ 3,249,811

338 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2021 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 11,863,244
3	Current Expenses	13000	34,440,940
4	Repairs and Alterations.....	06400	350,400
5	Equipment.....	07000	<u>1,275,870</u>
6	Total.....		\$ 47,930,454

339 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2021 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 12,476,122
3	Current Expenses	13000	13,383,206
4	Repairs and Alterations.....	06400	1,100
5	Equipment.....	07000	<u>83,350</u>
6	Total.....		\$ 25,943,778

DEPARTMENT OF EDUCATION

340 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 5,785,359
3	Unclassified.....	09900	2,000,000
4	Current Expenses	13000	222,367,820
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	10,000
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 230,183,179

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

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,881,766
3	Unclassified.....	09900	1,150,500
4	Current Expenses	13000	148,281,265
5	Repairs and Alterations.....	06400	20,000
6	Equipment.....	07000	100,000
7	Other Assets.....	69000	<u>25,000</u>
8	Total.....		\$ 151,458,531

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

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,896,249

3	Unclassified.....	09900	155,000
4	Current Expenses	13000	14,820,081
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	10,000
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 16,901,330

343 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2021 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,477,006
3	Unclassified.....	09900	1,000,000
4	Current Expenses	13000	113,346,390
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	10,000
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 117,853,396

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

344 - Commission for National and Community Service

(WV Code Chapter 5F)

Fund 8841 FY 2021 Org 0432

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 437,040
3	Current Expenses	13000	5,587,325
4	Repairs and Alterations.....	06400	<u>1,000</u>
5	Total.....		\$ 6,025,365

345 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2021 Org 0432

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 810,436
3	Current Expenses	13000	1,947,372
4	Repairs and Alterations.....	06400	1,000
5	Equipment	07000	1,000
6	Buildings	25800	1,000
7	Other Assets.....	69000	1,000
8	Land	73000	<u>360</u>
9	Total.....		\$ 2,762,168

346 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2021 Org 0433

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 353,396
3	Current Expenses	13000	1,076,162
4	Equipment.....	07000	<u>543,406</u>
5	Total.....		\$ 1,972,964

347 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2021 Org 0439

1	Equipment.....	07000	\$ 200,000
---	----------------	-------	------------

DEPARTMENT OF ENVIRONMENTAL PROTECTION

348 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2021 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 31,406,529
3	Current Expenses	13000	153,850,118
4	Repairs and Alterations.....	06400	739,783

5	Equipment.....	07000	1,712,238
6	Unclassified.....	09900	1,923,580
7	Other Assets.....	69000	2,177,261
8	Land.....	73000	<u>80,000</u>
9	Total.....		\$ 191,889,509

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

349 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,532,219
3	Unclassified.....	09900	73,307
4	Current Expenses.....	13000	<u>36,583,302</u>
5	Total.....		\$ 38,188,828

350 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 8802 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 14,610,947
3	Unclassified.....	09900	856,614
4	Current Expenses.....	13000	69,201,885
5	Equipment.....	07000	456,972
6	Buildings.....	25800	155,000
7	Other Assets.....	69000	<u>380,000</u>
8	Total.....		\$ 85,661,418

351 - Division of Health –

West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2021 Org 0506

1	West Virginia Drinking Water		
2	Treatment Revolving		
3	Fund – Transfer.....	68900	\$ 16,000,000

352 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2021 Org 0510

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 449,874
3	Unclassified.....	09900	5,050
4	Current Expenses	13000	<u>64,950</u>
5	Total.....		\$ 519,874

353 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 76,486,842
3	Unclassified.....	09900	22,855,833
4	Current Expenses	13000	112,110,500
5	Medical Services.....	18900	3,598,409,155
6	Medical Services		
7	Administrative Costs	78900	132,247,536
8	CHIP Administrative Costs.....	85601	4,539,496
9	CHIP Services.....	85602	47,422,974
10	Federal Economic Stimulus	89100	<u>5,000,000</u>
11	Total.....		\$ 3,999,072,336

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC
SAFETY**

354 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2021 Org 0601

1	Unclassified.....	09900	\$	5,000
2	Current Expenses	13000		<u>495,000</u>
3	Total.....		\$	500,000

355 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2021 Org 0603

1	Unclassified.....	09900	\$	982,705
2	Mountaineer ChalleNGe Academy	70900		4,978,680
3	Martinsburg Starbase	74200		439,622
4	Charleston Starbase.....	74300		424,685
5	Military Authority.....	74800		<u>93,601,594</u>
6	Total.....		\$	100,427,286

7 The Adjutant General shall have the authority to transfer
8 between appropriations.

356 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2021 Org 0603

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,350,000
3	Current Expenses	13000		300,000
4	Equipment.....	07000		<u>350,000</u>
5	Total.....		\$	2,000,000

357 - Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2021 Org 0606

2020]

HOUSE OF DELEGATES

2101

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,260,422
3	Current Expenses	13000	20,429,281
4	Repairs and Alterations.....	06400	5,000
5	Equipment.....	07000	<u>100,000</u>
6	Total.....		\$ 21,794,703

358 - Division of Corrections and Rehabilitation

(WV Code Chapters 15A)

Fund 8836 FY 2021 Org 0608

1	Unclassified.....	09900	\$ 1,100
2	Current Expenses	13000	<u>108,900</u>
3	Total.....		\$ 110,000

359 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2021 Org 0612

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,480,877
3	Current Expenses	13000	2,125,971
4	Repairs and Alterations.....	06400	42,000
5	Equipment.....	07000	2,502,285
6	Buildings	25800	750,500
7	Other Assets.....	69000	144,500
8	Land	73000	<u>500</u>
9	Total.....		\$ 8,046,633

360 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2021 Org 0619

1	Current Expenses	13000	\$ 80,000
---	------------------------	-------	-----------

361 - Division of Administrative Services

(WV Code Chapter 15)

Fund 8803 FY 2021 Org 0623

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,222,258
3	Unclassified.....	09900	25,381,973
4	Current Expenses	13000	1,750
5	Repairs and Alterations.....	06400	<u>25,185</u>
6	Total.....		\$ 26,631,166

DEPARTMENT OF REVENUE*362 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

1	Current Expenses	13000	\$ 3,000,000
---	------------------------	-------	--------------

DEPARTMENT OF TRANSPORTATION*363 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2021 Org 0802

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 501,394
3	Current Expenses	13000	5,498,106
4	Repairs and Alterations.....	06400	<u>500</u>
5	Total.....		\$ 6,000,000

364 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2021 Org 0805

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 922,070
3	Current Expenses	13000	8,663,149
4	Repairs and Alterations.....	06400	2,500
5	Equipment	07000	2,801,714
6	Buildings	25800	1,250,000
7	Other Assets.....	69000	<u>100,000</u>
8	Total.....		\$ 13,739,433

DEPARTMENT OF VETERANS' ASSISTANCE

365 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2021 Org 0613

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,947,485
3	Current Expenses	13000	2,840,300
4	Repairs and Alterations.....	06400	20,000
5	Equipment	07000	25,000
6	Buildings	25800	250,000
7	Land	73000	500
8	Veterans' Cemetary	80800	<u>175,000</u>
9	Total.....		\$ 6,258,285

366 - Department of Veterans' Assistance -

Veterans' Home

(WV Code Chapter 9A)

Fund 8728 FY 2021 Org 0618

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 906,850
3	Current Expenses	13000	601,700
4	Repairs and Alterations.....	06400	60,500
5	Equipment	07000	10,500
6	Buildings	25800	500

7	Other Assets.....	69000	500
8	Land	73000	<u>100</u>
9	Total.....		\$ 1,580,650

BUREAU OF SENIOR SERVICES

367 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2021 Org 0508

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 767,364
3	Current Expenses	13000	13,811,853
4	Repairs and Alterations.....	06400	<u>3,000</u>
5	Total.....		\$ 14,582,217

MISCELLANEOUS BOARDS AND COMMISSIONS

368 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8743 FY 2021 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,352,576
3	Current Expenses	13000	368,953
4	Repairs and Alterations.....	06400	39,000
5	Equipment.....	07000	<u>1,000</u>
6	Total.....		\$ 1,761,529

369 - Public Service Commission –

Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2021 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 621,039
3	Current Expenses	13000	124,628
4	Equipment.....	07000	3,000
5	Unclassified.....	09900	<u>4,072</u>
6	Total.....		\$ 752,739

370 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2021 Org 0941

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 163,405
3	Current Expenses	13000	633,417
4	Repairs and Alterations.....	06400	5,000
5	Equipment.....	07000	3,000
6	Other Assets.....	69000	<u>2,000</u>
7	Total.....		<u>\$ 806,822</u>
8	Total TITLE II, Section 6 - Federal Funds		
9	(Including claims		
10	against the state)		<u>\$ 5,240,174,645</u>

Sec. 7. Appropriations from federal block grants. — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2021.

371 - West Virginia Development Office –

Community Development

Fund 8746 FY 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 10,658,978
3	Unclassified.....	09900	2,375,000
4	Current Expenses	13000	<u>224,476,883</u>
5	Total.....		\$ 237,510,861

372 - *Department of Commerce**West Virginia Development Office –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2021 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 362,389
3	Unclassified.....	09900	125,000
4	Current Expenses	13000	12,002,111
5	Repairs and Alterations.....	06400	1,500
6	Equipment.....	07000	<u>9,000</u>
7	Total.....		\$ 12,500,000

373 - *WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2021 Org 0323

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,999,497
3	Unclassified.....	09900	23,023
4	Current Expenses	13000	39,263,511
5	Repairs and Alterations.....	06400	1,600
6	Equipment.....	07000	500
7	Buildings.....	25800	<u>1,100</u>
8	Total.....		\$ 42,289,231

374 - *Division of Health –**Maternal and Child Health*Fund 8750 FY 2021 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,268,209
3	Unclassified.....	09900	81,439

4	Current Expenses	13000		<u>5,794,267</u>
5	Total.....		\$	8,143,915

*375 - Division of Health –**Preventive Health*Fund 8753 FY 2021 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	268,337
3	Unclassified.....	09900		22,457
4	Current Expenses	13000		1,895,366
5	Equipment.....	07000		<u>165,642</u>
6	Total.....		\$	2,351,802

*376 - Division of Health –**Substance Abuse Prevention and Treatment*Fund 8793 FY 2021 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	657,325
3	Unclassified.....	09900		115,924
4	Current Expenses	13000		<u>10,853,740</u>
5	Total.....		\$	11,626,989

*377 - Division of Health –**Community Mental Health Services*Fund 8794 FY 2021 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	551,368
3	Unclassified.....	09900		33,533
4	Current Expenses	13000		<u>4,883,307</u>
5	Total.....		\$	5,468,208

*378 - Division of Human Services –**Energy Assistance*Fund 8755 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,860,574
3	Unclassified.....	09900	350,000
4	Current Expenses	13000	<u>33,182,151</u>
5	Total.....		\$ 35,392,725

*379 - Division of Human Services –**Social Services*Fund 8757 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 8,806,005
3	Unclassified.....	09900	171,982
4	Current Expenses	13000	<u>8,870,508</u>
5	Total.....		\$ 17,848,495

*380 - Division of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 20,559,397
3	Unclassified.....	09900	1,250,000
4	Current Expenses	13000	<u>105,851,386</u>
5	Total.....		\$ 127,660,783

*381 - Division of Human Services –**Child Care and Development*Fund 8817 FY 2021 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,797,226

3	Unclassified.....	09900	350,000
4	Current Expenses	13000	<u>47,000,307</u>
5	Total.....		\$ 50,147,533
6	Total TITLE II, Section 7 –		
7	Federal Block Grants		<u>\$ 550,940,542</u>

1 **Sec. 8. Awards for claims against the state.** — There are
2 hereby appropriated for fiscal year 2021, from the fund as
3 designated, in the amounts as specified, general revenue funds in
4 the amount of \$1,397,579, special revenue funds in the amount of
5 \$6,433, state road funds in the amount of \$844,164, and federal
6 revenue funds in the amount of \$280,346 for payment of claims
7 against the state.

1 **Sec. 9. Appropriations from general revenue fund surplus**
2 **accrued.** — The following item is hereby appropriated from the
3 state fund, general revenue, and is to be available for expenditure
4 during the fiscal year 2021 out of surplus funds only, accrued from
5 the fiscal year ending June 30, 2020, subject to the terms and
6 conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the following
8 appropriations be payable only from surplus as of July 31, 2020
9 from the fiscal year ending June 30, 2020, only after first meeting
10 requirements of W.Va. Code §11B-2-20(b).

11 In the event that surplus revenues available on July 31, 2020,
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 and shall be allocated first to provide
16 the necessary funds to meet the first appropriation of this section
17 and each subsequent appropriation in the order listed in this
18 section.

382 - West Virginia Tourism Office

(WV Code Chapter 5B)

Fund 0246 FY 2021 Org 0304

1	Tourism – Brand Promotion –		
2	Surplus	#####	\$ 5,000,000

383 - Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 010

1	Community Food Program –		
2	Surplus	#####	\$ 1,000,000

384 - State Board of Education –

Vocational Division

(WV Code Chapters 18, and 18A)

Fund 0390 FY 2021 Org 0402

	Jobs & Hope - Surplus	#####	\$ 3,500,000
--	-----------------------------	-------	--------------

385 - State Board of Education –

State Department of Education

(WV Code Chapters 18, and 18A)

Fund 0313 FY 2021 Org 0402

1	Jobs & Hope – Childhood Drug		
2	Prevention Education - Surplus	#####	\$ <u>2,500,000</u>

386 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2021 Org 0506

1	Jobs & Hope - Surplus	#####	\$ 4,500,000
---	-----------------------------	-------	--------------

387 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2021 Org 0603

1	Mountaineer ChalleNGe		
2	Academy - Surplus	#####	\$ 3,300,000
3	Total TITLE II, Section 9 –		
4	Surplus Accrued.....		<u>\$ 19,800,00</u>

1 **Sec. 10. Appropriations from lottery net profits surplus**
2 **accrued.** — The following item is hereby appropriated from the
3 lottery net profits, and is to be available for expenditure during the
4 fiscal year 2021 out of surplus funds only, as determined by the
5 director of lottery, accrued from the fiscal year ending June 30,
6 2020, subject to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the following
8 appropriation be payable only from surplus accrued from the fiscal
9 year ending June 30, 2020.

10 In the event that surplus revenues available from the fiscal
11 year ending June 30, 2020, are not sufficient to meet the
12 appropriation made pursuant to this section, then the
13 appropriation shall be made to the extent that surplus funds are
14 available.

*388 - Bureau of Senior Services –**Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2021 Org 0508

1	In-Home Services and Nutrition		
2	for Senior Citizens –		
3	Lottery Surplus	76699	\$ 750,000
4	Senior Services Medicaid		
5	Transfer – Lottery Surplus.....	68199	<u>16,000,000</u>
6	Total.....		\$ 16,750,000
7	Total TITLE II, Section 10 –		
8	Surplus Accrued.....		<u>\$ 16,750,000</u>

1 **Sec. 11. Appropriations from state excess lottery revenue**
 2 **surplus accrued.** — The following item is hereby appropriated
 3 from the state excess lottery revenue fund, and is to be available
 4 for expenditure during the fiscal year 2021 out of surplus funds
 5 only, as determined by the director of lottery, accrued from the
 6 fiscal year ending June 30, 2020, subject to the terms and
 7 conditions set forth in this section.

8 It is the intent and mandate of the Legislature that the following
 9 appropriation be payable only from surplus accrued from the fiscal
 10 year ending June 30, 2020.

11 In the event that surplus revenues available from the fiscal year
 12 ending June 30, 2020, are not sufficient to meet the appropriation
 13 made pursuant to this section, then the appropriation shall be made
 14 to the extent that surplus funds are available.

389 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2021 Org 0511

1	Medical Services – Lottery Surplus.....68100	\$	17,000,000
2	Total TITLE II, Section		
3	11 – Surplus Accrued.....	\$	<u>17,000,000</u>

1 **Sec. 12. Special revenue appropriations.** — There are hereby
 2 appropriated for expenditure during the fiscal year 2021
 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 purposes
14 the fund is to be expended.

15 During Fiscal Year 2021, the following funds are hereby
16 available and are to be transferred to the appropriate funds as
17 specified from available balances per the following:

390 - Attorney General

Consumer Protection Recovery Fund

(WV Code Chapter 46A)

Fund 1509 FY 2021 Org 1500

1 Directed Transfer 70000 \$ 6,100,000

2 From the above appropriation for Directed Transfer (Fund
3 1509, appropriation 70000), \$100,000 shall be transferred to the
4 Supreme Court – Family Court Fund (Fund 1763), \$1,000,000
5 shall be transferred to the West Virginia State Police – Forensic
6 Laboratory Fund (Fund 6511) and \$5,000,000 shall be transferred
7 to the Department of Health and Human Resources, Division of
8 Health – Ryan Brown Addiction Prevention and Recovery Fund
9 (Fund 5111).

10 Total TITLE II, Section 12 –
11 Appropriations for Special
12 Revenue Appropriations \$ 6,100,000

1 **Sec. 13. 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 2021, for the
4 purpose of making studies and recommendations relative to
5 improvements of the administration and management of spending
6 units in the executive branch of state government, shall be
7 deposited in the state treasury in a separate account therein
8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited during
10 the fiscal year 2021 to be expended as authorized by the Governor,

11 for such studies and recommendations which may encompass any
12 problems of organization, procedures, systems, functions, powers
13 or duties of a state spending unit in the executive branch, or the
14 betterment of the economic, social, educational, health and general
15 welfare of the state or its citizens.

1 **Sec. 14. Specific funds and collection accounts.** — A fund or
2 collection account which by law is dedicated to a specific use is
3 hereby appropriated in sufficient amount to meet all lawful
4 demands upon the fund or collection account and shall be expended
5 according to the provisions of Article 3, Chapter 12 of the Code.

1 **Sec. 15. Appropriations for refunding erroneous payment.**
2 — Money that has been erroneously paid into the state treasury is
3 hereby appropriated out of the fund into which it was paid, for
4 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 the
9 Treasurer and the Treasurer shall pay the warrant out of the fund
10 into which the amount was originally paid.

1 **Sec. 16. 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 insurance
4 fund of the West Virginia housing development fund which is
5 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 of
8 any state agency for either general obligation or revenue bonds or
9 any local taxing district for general obligation bonds to remit funds
10 necessary for the payment of interest and sinking fund
11 requirements. The Governor is authorized to transfer from time to
12 time such amounts to the municipal bond commission as may be
13 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. 17. Appropriations for local governments.** — There are
2 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 which
5 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. 18. Total appropriations.** — Where only a total sum is
2 appropriated to a spending unit, the total sum shall include personal
3 services and employee benefits, annual increment, current
4 expenses, repairs and alterations, buildings, equipment, other
5 assets, land, and capital outlay, where not otherwise specifically
6 provided and except as otherwise provided in TITLE I –
7 GENERAL PROVISIONS, Sec. 3.

1 **Sec. 19. General school fund.** — The balance of the proceeds
2 of the general school fund remaining after the payment of the
3 appropriations made by this act is appropriated for expenditure in
4 accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

1 **Sec. 1. Appropriations conditional.** — The expenditure of the
2 appropriations made by this act, except those appropriations made
3 to the legislative and judicial branches of the state government, are
4 conditioned upon the compliance by the spending unit with the
5 requirements of Article 2, Chapter 11B of the Code.

6 Where spending units or parts of spending units have been
7 absorbed by or combined with other spending units, it is the intent
8 of this act that appropriations and reappropriations shall be to the

9 succeeding or later spending unit created, unless otherwise
10 indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is declared
2 unconstitutional by a court of competent jurisdiction, its decision
3 shall not affect any portion of this act which remains, but the
4 remaining portion shall be in full force and effect as if the portion
5 declared unconstitutional had never been a part of the act.

On motion of Delegates Householder, Criss, Anderson, Butler, Cowles, Ellington, Espinosa, Graves, Hardy, Hill, Linville, Maynard, Pack, Rowan and Storch, the amendment was amended on page eleven, Item 4, line three by striking out “\$19,911,000” and inserting in lieu thereof “\$16,611,000”;

On page eleven, Item 4, line ten, by reconciling the fund total accordingly;

On page fifty-two, Item 63, line four, by striking out “\$1,500,000” and inserting in lieu thereof “\$4,800,000”;

On page fifty-two, Item 63, line eight, by reconciling the fund total accordingly;

On page fifty-three, Item 63, line eighteen, by striking out “\$1,500,000” and inserting in lieu thereof “\$4,800,000”;

On page one hundred eighty-seven, by striking out Item 387 in its entirety;

On page one hundred eighty-seven, by reconciling the Section 9 total accordingly.

Delegates Lavender-Bowe, Zukoff, Estep-Burton, Fleischauer, Longstreth, Staggers, Walker, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Evans, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Swartzmiller, C. Thompson, R. Thompson, Tomblin and Williams moved to amend the amendment on page 44, under “57 – Division of Health – Central

Office,” on line 7, by striking out the number “\$38,621” and inserting in lieu thereof the number “\$138,621”.

On page forty-five, under “57 – Division of Health – Central Office,” on line twenty-nine, by reconciling the total on line twenty-nine accordingly.

On page forty-five, following line forty-four, by inserting the following appropriation designation: “From the above appropriation for Women, Infants, and Children (fund 0407, appropriation 21000), an amount not less than \$100,000 shall be expended for a Drug Free Mothers and Babies Program.”

On page forty-six, under “58 – Consolidated Medical Services Fund,” on line three, by striking out the number “\$68,613,953” and inserting in lieu thereof the number “\$68,713,953”.

On page forty-six, under “58 – Consolidated Medical Services Fund,” on line eleven, by reconciling the total on line twenty-nine accordingly.

On page forty-seven, by editing the appropriation designation on line twenty-four to read: “Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Healing Place of Huntington and \$100,000 for a Drug Free Mothers and Babies Program.”

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$200,000 and reconciling line thirty-four on page forty-nine accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 493**), and there were—yeas 43, nays 56, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Azinger, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: McGeehan.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Angelucci, Barrett, Bates, Boggs, N. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend on page forty-eight, under “61 – Division of Human Services,” on line nine, by striking out the number “\$400,000” and inserting in lieu thereof, “\$900,000”.

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$500,000 and reconciling line thirty-four on page forty-nine accordingly.

On the adoption of the amendment to the amendment, Delegate S. Brown demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 494**), and there were—yeas 42, nays 57, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks,

Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Dean.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Sponaugle, Angelucci, Barrett, Bates, Boggs, N Brown, S Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page thirteen, under “7 – Governor’s Office – Civil Contingent Fund,” by adding a new appropriation under “7 – Governor’s Office – Civil Contingent Fund,” that includes the following:

“Public Health Emergency

Response Fund..... XXXXX \$8,000,000”.

On page thirteen, under “7 – Governor’s Office – Civil Contingent Fund,” by adding a new line item:

“Total \$14,000,000”.

And,

On page forty-eight, under “61 – Division of Human Services” on line 5, by reducing appropriation 18900 by \$8,000,000 and reconciling line thirty-four on page forty-nine accordingly.”

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

The yeas and nays having been ordered, they were **(Roll No. 495)**, and there were—yeas 42, nays 58, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Higginbotham, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Boggs, Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment, on page twelve, under “5- Governor’s Office” on line six, by striking the number “0” and inserting in lieu thereof “\$1,000,000” and reconciling the total on line six.

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$1,000,000 and reconciling line thirty-four on page forty-nine accordingly.

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

The yeas and nays having been ordered, they were taken **(Roll No. 496)**, and there were—yeas 44, nays 56, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Azinger, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Cowles, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Bates, Angelucci, Barrett, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page eleven, under “4 – Supreme Court – General Judicial,” on line three, by striking out the number “\$16,611,000” and inserting in lieu thereof, the number “\$9,911,000”.

And,

On page eleven, line ten, reconciling the total accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 497**), and there were—yeas 38, nays 61, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Skaff, Staggers,

Swartzmiller, C. Thompson, Tomblin, Walker, Williams, Wilson and Zukoff.

Absent and Not Voting: Linville.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Bates, Angelucci, Barrett, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page one hundred fifty-four, under “298 – Bureau of Senior Services – Lottery Senior Citizens Fund,” on line one, by striking out the number “\$209,640” and inserting in lieu thereof the number “\$159,640”.

And,

On page one hundred fifty-five, under “298 – Bureau of Senior Services – Lottery Senior Citizens Fund,” inserting after line thirteen a new line item 14, “Senior Nutrition Vehicle Replacement.....Fund XXX.....\$50,000”.

And,

Following the period at the end of page one hundred fifty-five, line twenty-four, insert the following language:

“From the above appropriation, Senior Nutrition Vehicle Replacement, to be divided among the Senior Programs that did not receive a vehicle for their Nutrition Program.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 498**), and there were—yeas 41, nays 58, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Skaff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Bates, Longstreth, Angelucci, Barrett, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved the amend the amendment on page one hundred eighty-eight, by adding a new item as follows under **Sec. 11. Appropriations from state excess lottery revenue surplus accrued:**

“390 – Department of Veterans’ Assistance

(WV Code Chapter 9A)

Fund XXX FY 2021 Org 0613

Hershel “Woody” Williams Beckley Nursing Facility – Lottery Surplus.....\$14,000,000”

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

The yeas and nays having been ordered, they were taken (**Roll No. 499**), and there were—yeas 41, nays 58, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Staggers.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Hornbuckle, Pushkin, S. Brown, Angelucci, Barrett, Bates, Boggs, N. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page thirty-two, under “40 – WorkForce West Virginia”, by adding an appropriation on line three that reads:

“WV Summer Employment

Program for At-Risk YouthXXXXX \$2,648,000”,
and reconciling line four accordingly.

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$2,648,000 and reconciling line thirty-four on page forty-nine accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 500**), and there were—yeas 42, nays 58, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates C. Thompson, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, R. Thompson, Tomblin, Walker, Williams moved to amend the amendment on page 58, under “70 – West Virginia State Police,” on line seven, by striking out the number “\$1,070,968” and inserting in lieu thereof the number “\$1,170,968”.

On page fifty-nine, by inserting the following appropriation designation: “From the above appropriation for Communications and Other Equipment (R) (fund 0453, appropriation 55800), an amount not less than \$100,000 shall be expended for bulletproof vests.”

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$100,000 and reconciling line thirty-four on page forty-nine accordingly.

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

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

The yeas and nays having been ordered, they were taken (**Roll No. 501**), and there were—yeas 44, nays 56, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams, Wilson and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Zukoff, Canestraro, Williams, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, , Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin and Walker moved to amend the amendment on page one hundred eighty-eight, by adding a new item following line ten, as follows under **Sec. 11. Appropriations from state excess lottery revenue surplus accrued:**

“389 - Division of Highways –

Intermediate Road Repair Fund

(WV Code Chapter 17)

Fund XXX FY 2021 Org 0803

Division of Highways - Surplus.....##### \$2,000,000

The above appropriation for Intermediate Road Repair Fund (fund XXX, appropriation 21900) is to be allocated in equal payments of \$200,000 to each of the 10 Division of Highways' Districts."

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

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

The yeas and nays having been ordered, they were taken (**Roll No. 502**), and there were—yeas 43, nays 54, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: J. Kelly, Miller and Sypolt.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

An amendment offered by Delegate Rowe, was reported by the Clerk.

Whereupon,

Delegate Rowe obtained unanimous consent to withdraw the amendment.

Delegates Doyle, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page sixty-three, under “80 – State Rail Authority,” line two by striking out the number “\$1,287,707” and inserting in lieu thereof the number “\$3,687,707”.

On page sixty-three, under “80 – State Rail Authority,” line five, by striking out the number “\$3,120,894” and inserting in lieu thereof the number “\$5,520,894”.

On page sixty-three, line seven, striking out the number “\$1,000,000” and inserting in lieu thereof the number “\$3,400,000”.

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$2,400,000 and reconciling line thirty-four on page forty-nine accordingly.

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

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

The yeas and nays having been ordered, they were taken (**Roll No. 503**), and there were—yeas 41, nays 59, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans,

Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Kump, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Sponaugle, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page twenty-four, under “27 – Public Defender Services,” on line one, by striking out the number “\$1,711,081” and inserting in lieu thereof the number “\$3,361,081”;

And,

On page forty-eight, under “61 – Division of Human Services,” on line five, by reducing appropriation 18900 by \$1,650,000 and reconciling line thirty-four on page forty-nine accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 504**), and there were—yeas 41, nays 59, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff,

Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Rowe, Estep-Burton, Robinson, Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Rodighiero, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on line one, by striking out the number “\$12,481,921” and inserting in lieu thereof “\$12,000,000” and reconcile line eleven on page one hundred thirty-eight accordingly.

And,

On page one hundred thirty-nine, under *281 - Public Service Commission – Consumer Advocate Fund*, on line one by striking out the number “\$722,994” and inserting in lieu thereof “\$1,254,915.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 505**), and there were—yeas 42, nays 57, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Kessinger.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Fleischauer, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page forty-nine, under “61 – Division of Human Services,” on line twenty-two, by striking out the number “\$2,500,000” and inserting in lieu thereof “\$3,000,000”.

And,

On page forty-eight, under *61 - Division of Human Services*, on line five, by reducing appropriation 18900 by \$500,000 and reconciling line thirty-four on page forty-nine accordingly.

Delegate Porterfield moved the previous question, which demand was not sustained.

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

The yeas and nays having been ordered, they were taken (**Roll No. 506**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Byrd, Cadle and Graves.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

The strike and insert amendment offered by Delegate Householder, as amended, was then adopted.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 507**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: S. Brown, Butler, Doyle, McGeehan and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 150) passed.

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

On this question, the yeas and nays were taken (**Roll No. 508**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Butler and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 150) takes effect from its passage.

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

At 4:20 p.m., the House of Delegates recessed until 4:50 p.m.

* * * * *

Evening Session

* * * * *

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

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 490, Relating to criminal offenses against agricultural facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 509**), and there were—yeas 83, nays 13, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Caputo, Doyle, Fleischauer, Fluharty, Longstreth, Miley, Pushkin, Rowe and Walker.

Absent and Not Voting: Hicks, Kump, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 490) passed.

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

Com. Sub. for S. B. 490 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3B-7, relating to creating the offenses of trespass upon an animal or crop facility and conspiracy to trespass upon an animal or crop facility; defining terms; establishing criminal penalties; creating an enhanced felony offense for second and subsequent violations; authorizing double damages for injuries to animal and crop facilities; and allowing injunctive relief.”

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

Com. Sub. for S. B. 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 76, nays 20, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bibby, N. Brown, Cadle, Dean, Fast, Hicks, J. Jeffries, C. Martin, P. Martin, Maynard, McGeehan, Miller, Paynter, Phillips, Rodighiero, R. Thompson, Tomblin, Toney and Wilson.

Absent and Not Voting: Kessinger, Kump, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 578) passed.

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

Com. Sub. for S. B. 578 – “A Bill to amend and reenact §11-13-20 of the Code of West Virginia, 1931, as amended, relating to adjusting the calculation of business and occupation tax on the business of generating, producing, or selling electricity from solar energy facilities; defining terms and establishing the taxable generating capacity for certain generating units utilizing solar photovoltaic methods.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 511**), and there were—yeas 81, nays 15, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bibby, N. Brown, Cadle, Fast, Hicks, Howell, J. Jeffries, P. Martin, Maynard, McGeehan, Paynter, Rodighiero, R. Thompson and Tomblin.

Absent and Not Voting: Kessinger, Kump, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 578) takes effect July 1, 2020.

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

S. B. 600, Creating special revenue account designated Military Authority Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 512**), and there were—yeas 59, nays 38, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Bartlett, Bates, N. Brown, S. Brown, Cadle, Canestraro, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Hicks, Hornbuckle, Jennings, J. Kelly, Lovejoy, C. Martin, P. Martin, McGeehan, Miller, Pack, Paynter, Phillips, Porterfield, Pyles, Rodighiero, Skaff, Sponaugle, Staggers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Walker and Wilson.

Absent and Not Voting: Kump, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 600) passed.

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

Com. Sub. for S. B. 614, Changing method of allocating funding from Safe School Funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 513**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Kump, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 614) passed.

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

On this question, the yeas and nays were taken (**Roll No. 514**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: S. Brown, Criss, Householder, Kump, Linville, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 614) takes effect from its passage.

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

Com. Sub. for S. B. 662, Removing restrictions on fiduciary commissioners; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 515**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: S. Brown, Cooper, Criss, Householder, Kump, Linville, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 662) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 516**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: S. Brown, Cooper, Criss, Householder, Kump, Linville, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 662) takes effect July 1, 2020.

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

Com. Sub. for S. B. 668, Enacting Uniform Trust Decanting Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 517**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Criss, Kump, Linville, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 668) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 518**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Cooper, Criss, Kump, Linville, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 668) takes effect July 1, 2020.

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

Com. Sub. for S. B. 802, Relating to public utilities generally; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 519**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Criss, Kump, Linville, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 802) passed.

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

Com. Sub. for S. B. 802 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-20, relating generally to the regulation of public utilities; providing legislative findings; providing that certain large volume end users may receive natural gas service without the permission, consent, control, review, or input of the West Virginia Public Service Commission; requiring the end user pay for the minimum amount of gas required for the exception; providing that the end user shall make certain certifications to the commission; providing that the commission shall receive, file, and retain all end

user certifications; providing that no person, entity, or body shall be a public utility, intrastate pipeline, common carrier, or otherwise subject to the jurisdiction of the commission as a result of supplying such end users; and providing that provisions shall not prevent or impede the commission's safety regulation of pipelines.”

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

Com. Sub. for S. B. 810, Implementing federal Affordable Clean Energy rule; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 520**), and there were—yeas 89, nays 4, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Doyle, Estep-Burton, Hornbuckle and Pushkin.

Absent and Not Voting: Cooper, Criss, Kump, Linville, Rowe, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 810) passed.

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

Second Reading

S. B. 42, Permitting faith-based electives in classroom drug prevention programs; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page two, section seven-b, line thirty-nine, after the word

“electives”, by inserting a comma and the following words “along with non-faith-based electives” followed by a comma.

The bill was then ordered to third reading.

Com. Sub. for S. B. 130, Relating to procedure for driver’s license suspension and revocation for DUI; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page twelve, section two-a, lines one through seven, by striking out all of subsection (a) and inserting in lieu thereof a new subsection (a), to read as follows:

“(a) For purposes of this article and §17C-5A-1 *et seq.* of this code, the phrase “in this state” shall mean anywhere within the physical boundaries of this state, including, but not limited to, publicly maintained streets and highways, and subdivision streets or other areas not publicly maintained but nonetheless open to the use of the public for purposes of vehicular travel, but as used in §17C-5-2(e), §17C-5-2(f), §17C-5-2(g), §17C-5-2(h), §17C-5-2(i), §17C-5-2(j), and §17C-5-2(k) of this code, the term does not mean or include driving or operating a vehicle solely and exclusively on one’s own property in an area not open to the use of the public for purposes of vehicular travel.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 175, Requiring certain agencies maintain website which contains specific information; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section seven, line two, after the word “information”, by inserting the words “in a searchable form by the public”.

On page one, section seven, line six, after the word “each”, by striking out the words “staff member” and inserting in lieu thereof the words “administrative agency officials”.

On page one, section seven, line eight, after the word “information”, by striking out the words “of its staff members”.

On page two, section seven, on line twelve, by striking out subdivision (4) in its entirety, and renumbering the remaining subdivisions thereof.

On page two, section seven, on line sixteen, by striking out subdivision (8) in its entirety, and renumbering the remaining subdivisions thereof.

On page two, section three-rr, line one, after the words “county commission” by striking out the word “may” and inserting in lieu thereof the word “shall”.

On page two, section three-rr, line five, after the word “address”, by inserting a colon and the following proviso to read as follows: “Provided, That the county commission may withhold contact information from disclosure that it deems necessary to protect their safety, the safety of their coworkers, and the integrity of law-enforcement operations”.

And,

On page three, section one, line five, after the word “address”, by inserting a colon and the following proviso to read as follows: “Provided, That the municipality may withhold contact information from disclosure that it deems necessary to protect their safety, the safety of their coworkers, and the integrity of law-enforcement operations”.

Delegate Fleischauer moved to amend the bill, at the end of section one, on page four, following the period on line twelve, by inserting the following:

**“CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.**

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-26. Enrollment of persons with communication disability.

(a) As used in this section:

(1) 'Communication disability' has the same meaning as in §17A-2-27 of this code.

(2) 'Disability that can impair communication' has the same meaning as in §17A-2-27 of this code.

(3) 'Legal guardian' has the same meaning as in §49-1-205 of this code.

(4) 'Ward' means a person for whom a legal guardian has been appointed.

(b) The Division of Motor Vehicles shall establish and maintain an enrollment list of persons who enroll under this section as being diagnosed with a communication disability or a disability that can impair communication.

(c) Any person diagnosed with a communication disability or a disability that can impair communication who is 18 years of age or older may enroll with the division for inclusion in the enrollment list by submitting a completed verification form to the division.

(d) Any parent or guardian of a minor child or a ward diagnosed with a communication disability or a disability that can impair communication may enroll the minor child or the ward with the division for inclusion in the enrollment list by submitting a completed verification form to the division.

(e) (1) The division shall include in the enrollment list information provided on a completed verification form that the division determines is necessary for a law-enforcement officer to identify a person as diagnosed with a communication disability or a disability that can impair communication. The division shall make the enrollment list available to state and local law-enforcement officers through a law-enforcement automated data system.

(2) Information in the enrollment list is not a public record subject to inspection or copying under Chapter 29B of this code.

(f) A person diagnosed with a communication disability or a disability that can impair communication who is included in the enrollment list, or the parent or guardian of a minor child or a ward diagnosed with a communication disability or a disability that can impair communication who is included in the enrollment list, may request removal of the person, minor or ward, as applicable, from the enrollment list. The person, parent or guardian shall do so by completing the verification form with only the information required under subsection (c), subdivisions (1), (2), (3), (8) and (9) of §17A-2-27 of this code, as applicable, and submitting the form to the division. Upon receipt of a properly completed verification form requesting the removal of a person with a communication disability or a disability that can impair communication from the enrollment list, the division shall immediately remove that person from the enrollment list.

(g) The division may propose rules for promulgation in accordance with the provisions of §29A-3-1 et seq. of this code to carry out the requirements of this section.

§17A-2-27. Form for inclusion in enrollment list with a communication disability.

(a) As used in this section:

(1) ‘Communication disability’ means a human condition involving an impairment in the human’s ability to receive, send, process or comprehend concepts or verbal, nonverbal or graphic symbol systems that may result in a primary disability or may be secondary to other disabilities.

(2) ‘Disability that can impair communication’ means a human condition with symptoms that can impair the human’s ability to receive, send, process or comprehend concepts or verbal, nonverbal or graphic symbol systems.

(3) ‘Legal guardian’ has the same meaning as in §49-1-205 of this code.

(4) ‘Health care provider’ means a person as defined in §16-30-3 of this code.

(5) ‘Psychiatrist’ means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American Medical Association, the committee on post-graduate education of the American Osteopathic Association, or the American Osteopathic Board of Neurology and Psychiatry.

(6) ‘Psychologist’ means a person licensed under the provisions of §30-21-1 *et seq.* of this code.

(b) The form shall include the following information:

(1) The name of the person diagnosed with a communication disability or a disability that can impair communication;

(2) The name of the person completing the form on behalf of the person diagnosed with a communication disability or a disability that can impair communication, if applicable;

(3) The relationship between the person completing the form and the person diagnosed with a communication disability or a disability that can impair communication, if applicable;

(4) The driver’s license number or state identification card number issued to the person diagnosed with a communication disability or a disability that can impair communication, if that person has such a number;

(5) The license plate number of each vehicle owned, operated or regularly occupied by the person diagnosed with a communication disability or a disability that can impair communication, or enrolled in that person’s name;

(6) A physician’s, psychiatrist’s, or psychologist’s signed certification that the person has been diagnosed with a communication disability or a disability that can impair communication;

(7) The name, business address, business telephone number and medical license number of the physician, psychiatrist or psychologist making the certification;

(8) The signature of the person diagnosed with a communication disability or a disability that can impair communication, or the signature of the person completing the form on behalf of such a person, that may indicate the desire to be removed from the data base; and

(9) Option to explain – A place where the person or persons may include a short explanation of the type of disability, possible symptoms, and measures which could alleviate or lessen the symptoms.

(c) Any of the following persons may complete the verification form:

(1) Any person diagnosed with a communication disability or a disability that can impair communication who is 18 years of age or older;

(2) The parent or parents of a minor child diagnosed with a communication disability or a disability that can impair communication;

(3) The guardian of a person diagnosed with a communication disability or a disability that can impair communication, regardless of the age of the person.

(d) The Division of Motor Vehicles shall make the verification form electronically available on each of their respective websites.”

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

The Speaker ruled that the amendment was germane to the purpose of the bill.

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

The yeas and nays having been ordered, they were taken (**Roll No. 521**), and there were—yeas 71, nays 22, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Azinger, Bibby, Cowles, Espinosa, Foster, Hardy, Hill, Hott, Householder, D. Jeffries, J. Jeffries, Jennings, Maynard, McGeehan, Phillips, Porterfield, Summers, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Criss, Kump, Linville, Rowan, Steele and Storch.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 230, Requiring State Board of Education provide routine education in suicide prevention; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page two, section forty, after line thirty, by inserting a new subsection, designated subsection (d) to read as follows:

“(d) The provisions of this section shall be known as ‘Jamie’s Law’.”

Delegate Wilson moved to amend the bill, on page two section eight-e, line thirty, by inserting the following language:

“(e) Beginning with the 2020-2021 school year, comprehensive drug awareness and suicide prevention programs for students in grades K through 12 may include faith-based electives for drug awareness in classrooms. The state board shall promulgate a rule on how the faith-based electives can be offered in a way that is consistent with constitutional requirements.”

Delegate Wilson then asked and obtained unanimous consent that the amendment be reformed, as follows:

On page two, section eight-e, line thirty, by inserting the following language: “(e) Beginning with the 2020-2021 school year, comprehensive suicide prevention programs for students in grades K through 12 may include faith-based electives for suicide prevention in classrooms. The state board shall promulgate a rule on how the faith-based electives can be offered in a way that is consistent with constitutional requirements.”

Whereupon,

In the absence of objection, the amendment was withdrawn.

The bill was then ordered to third reading.

Com. Sub. for S. B. 261, Creating criminal penalties for introducing ransomware into computer with intent to extort; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page five, section four, line six, after the word “for”, by inserting the words “a determinate sentence of”.

On page five, section four, line ten, after the word “for”, by inserting the words “a determinate sentence of”.

And,

On page five, section four, line nineteen, after the word “for”, by inserting the words “a determinate sentence of”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 269, Establishing advisory council on rare diseases; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page two, line sixteen, after the word “years”, by inserting a period and striking the remainder of the subsection.

On page two, line twenty-four, by striking out subsection (c) in its entirety and re-lettering the remaining subsections accordingly.

And,

On page four, section three, line twenty-seven, after the period, by inserting the following:

“The advisory council shall terminate on January 1, 2023.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 275, Creating Intermediate Court of Appeals; on second reading, coming up in regular order, was reported by the Clerk.

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

Com. Sub. for S. B. 288, Relating to family planning and child spacing; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, section one, line nine, after the period by inserting, “The Bureau for Medical Services shall update the managed care contract to include language that the contracted managed care company may not present barriers that delay or prevent access, such as prior authorizations or step-therapy failure requirements; and should receive patient centered education and counseling on all FDA approved birth control methods.”

And,

On page one, line thirteen, by striking out “unborn children” and inserting in lieu thereof “a fetus”.

The bill was then ordered to third reading.

S. B. 289, Creating Green Alert Plan; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 3E. CREATION OF A STATEWIDE GREEN ALERT PLAN.

§15-3E-1. Short title.

This article shall be known and may be cited as the Green Alert Plan.

§15-3E-2. Findings and declarations relative to Green Alert Plan.

(a) The Legislature finds that:

(1) According to the U.S. Department of Veterans Affairs, 20 veterans commit suicide each day across the country;

(2) While veterans make up less than nine percent of the total U.S. population, tragically, they account for 19 percent of all suicides in America;

(3) By establishing the Green Alert Plan, law enforcement will be provided with additional tools that will help them in responding to an at-risk veteran’s disappearance and place an emphasis on the risk of suicide for veterans with a service-related condition;

(4) The Green Alert Plan would also allow for a more rapid dissemination of information on the missing at-risk veteran to the public, who, having been alerted to the situation, now become an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering a missing at-risk veteran, and potentially saving them serious injury or suicide; and

(5) Given the success of both the Amber and Silver Alert systems, expanding the program to include at-risk veterans is imperative to help those who have served.

(b) The Legislature declares that creating a Green Alert is a way to prevent more tragedies and help ensure our veterans get back home safely.

§15-3E-3. Establishment of Green Alert Plan.

(a) The Superintendent of the West Virginia State Police shall establish the Green Alert Plan authorizing the broadcast media, upon notice from the West Virginia State Police, to broadcast an alert to inform the public of a missing at-risk veteran, subject to the criteria established in §15-3E-4 of this code. The program shall be a voluntary, cooperative effort between state law enforcement and the broadcast media.

(b) As used in this article, ‘at-risk veteran’ means a person who is currently serving in the armed forces on active duty, reserve status, or in the National Guard, or a person who served in the active military, or who was discharged or released under conditions other than dishonorable who is known, based on the information provided by the person making the report, to have a physical or mental health condition that is related to his or her service.

(c) The Superintendent shall notify the broadcast media serving the State of West Virginia of the establishment the Green Alert Plan and invite their voluntary participation.

(d) The Superintendent shall submit a plan to the Joint Committee on Government and Finance no later than December 1, 2020. The plan shall include Green Alert activation protocols, evaluation of first responder training requirements and needs as related to at-risk veterans, coordination and use of established programs, and analysis of any costs. The Superintendent shall also make recommendations for any additional legislation or actions necessary to further facilitate the implementation of the Green Alert Plan.

§15-3E-4. Activation of Green Alert.

The following criteria shall be met before the West Virginia State Police activate the Green Alert:

(1) An individual who has knowledge that the at-risk veteran is missing has submitted a missing person's report to the West Virginia State Police or other appropriate law-enforcement agency;

(2) The at-risk veteran is believed to be missing, regardless of circumstance;

(3) Based upon information provided by the individual who has submitted the missing person's report, law enforcement has reason to believe that the at-risk veteran has a physical or mental health condition that is related to his or her service;

(4) The missing at-risk veteran may be in danger of death or serious bodily injury;

(5) The missing at-risk veteran is domiciled or believed to be located in the state of West Virginia;

(6) The missing at-risk veteran is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing at-risk veteran, and the missing at-risk veteran is incapable of returning to his or her residence without assistance; and

(7) There is sufficient information available to indicate that a Green Alert would assist in locating the missing at-risk veteran.

§15-3E-5. Notice to participating media; broadcast of alert.

(a) To participate, the media may agree, upon notice from the West Virginia State Police via email or facsimile, to transmit information to the public about a missing at-risk veteran that has occurred within their broadcast service region.

(b) The alerts shall include a description of the missing at-risk veteran, such details of the circumstance surrounding him or her becoming missing, as may be known, and such other information as the West Virginia State Police may deem pertinent and appropriate. The West Virginia State Police shall, in a timely manner, update the broadcast media with new information when appropriate concerning the missing at-risk veteran.

(c) The alerts also shall provide information concerning how those members of the public who have information relating to the missing at-risk veteran may contact the West Virginia State Police or other appropriate law-enforcement agency.

(d) Concurrent with the notice provided to the broadcast media, the West Virginia State Police shall also notify the Department of Transportation, the Division of Highways, and the West Virginia Turnpike Commission of the Green Alert so that the department and the affected authorities may, if possible, through the use of their variable message signs, inform the motoring public that a Green Alert is in progress and may provide information relating to the missing at-risk veteran and how motorists may report any information they have to the West Virginia State Police or other appropriate law-enforcement agency.

(e) The alerts shall terminate upon notice from the West Virginia State Police.

(f) The Superintendent shall develop and undertake a campaign to inform law-enforcement agencies about the Green Alert Plan established under this article.

§15-3E-6. Aid to missing at-risk veteran; immunity from civil or criminal liability.

No person or entity who, in good faith, follows and abides by the provisions of this article is liable for any civil or criminal penalty as the result of any act or omission in the furtherance thereof unless it is alleged and proven that the information disclosed was false and disclosed with the knowledge that the information was false.

§15-3E-7. Guidelines; procedural rules.

The Superintendent may adopt guidelines and procedural rules to effectuate the purposes of this article.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 522**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Cooper, Hartman, Kump, Pushkin, Rodighiero, Rowan and Steele.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 523**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Cooper, Kump, Linville, Pushkin, Rowan and Steele.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 289) passed.

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

S. B. 289 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-3E-1, §15-3E-2, §15-3E-3, §15-3E-4, §15-3E-5, §15-3E-6 and §15-3E-7 of said code, all relating to the establishment of an alert system for missing at-risk veterans by Superintendent of West Virginia State Police; providing legislative findings and declarations relative to the Green Alert plan; establishment of a Green Alert Plan; defining term; activation of a Green Alert; notice to participating media; broadcasting of a Green Alert; notification to the Department of Transportation, the Division of Highways and the West Virginia

Turnpike Commission of the Green Alert; termination of the Green Alert; immunity from criminal or civil liability; and authorizing Superintendent to promulgate guidelines and procedural rules.”

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

Com. Sub. for S. B. 303, Enacting Students’ Right to Know Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page three, section four, following line thirty-four, by striking out section four from the bill and inserting a new section four to read as follows:

“§18-10P-4. Information distribution.

No later than October 15 of each year, the State Superintendent shall distribute the information collected by the State Board of Education in §18-10P-3 of this code:

(1) To every public high school in the state for distribution to students by school guidance counselors; and

(2) To the public by making it readily available through publishing on the Department of Education’s website.”

On motion of Delegate D. Jeffries, the bill was amended on page two, section three, line twenty-eight, following the word “enlistments”, by inserting the words “and each branch’s starting salary”.

And,

On page two, section three, line thirty, following the word “state”, by inserting a comma and the words “and each branch of the US Armed Forces, National Guard and Reserves”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 308, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 312, Relating to provisional licensure of social workers; on second reading, coming up in regular order, was read a second time.

Delegate C. Thompson moved to amend the bill on page four, section thirty, line eleven, by striking out the number “20” and inserting in lieu thereof the number “60”.

The question being on the adoption of the amendment, the same was put and the amendment was rejected.

Delegate C. Thompson moved to amend the bill on page three, section sixteen, line fifty-one, following the period, by inserting the following subsection:

“(f) The Bureau for Children and Families service workers hired as adult protective service workers shall be compensated utilizing the pay scale used for child protective services workers.”

Delegate Hill arose to an inquiry of the Chair regarding the germaneness of the amendment.

The Speaker ruled that the amendment was not germane to the purpose of the bill.

The bill was then ordered to third reading.

Com. Sub. for S. B. 491, Relating to Seed Certification Program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 510, Making permanent land reuse agency or municipal land bank’s right of first refusal on certain tax sale properties; on second reading, coming up in regular order, was read a second time.

Delegates Cowles and Rohrbach moved to amend the bill on page three, subsection two, line fifty-five, by striking out the number “\$100,000” and inserting in lieu the following: “\$50,000”.

And,

On page four, line eighty, following subsection three, by inserting the following language:

“(4) Effective July 1, 2025, the provisions of subdivisions (2) and (3) of this subsection shall sunset and have no further force and effect.

(5) Prior to January 1, 2025, any land reuse agency or municipal land bank which exercises the authority granted by this subsection shall submit to the Joint Committee on Government and Finance a report on the entity’s activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this subsection.”

Delegate Porterfield moved to amend the amendment on page three, subsection two, line fifty-five, by striking out the number “\$50,000” and inserting in lieu the following: “\$25,000”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 524**), and there were—yeas 20, nays 71, absent and not voting 9, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Atkinson, Azinger, Bibby, Butler, Cadle, Fast, Foster, D. Jeffries, Kessinger, McGeehan, Phillips, Porterfield, Summers, Sypolt, Toney, Waxman, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Angelucci, Bartlett, Campbell, Cooper, Householder, J. Kelly, Kump, Lovejoy and Steele.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

The question being on the adoption of the amendment offered by Delegates Cowles and Rohrbach, the same was put and the amendment was adopted.

Delegate Porterfield moved to amend the bill on page three, subsection two, line fifty-four, after the word “meets”, by striking out the words “one or more” and inserting in lieu thereof the word “all”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 525**), and there were—yeas 15, nays 77, absent and not voting 8, with the yeas and absent and not voting being as follows:

Yeas: Bibby, Butler, Cadle, Fast, Foster, Graves, Hanna, D. Jeffries, C. Martin, P. Martin, McGeehan, Porterfield, Summers, Waxman and Wilson.

Absent and Not Voting: Angelucci, Bartlett, Canestraro, Cooper, Householder, J. Kelly, Kump and Steele.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

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

Whereupon,

Delegate Porterfield obtained unanimous consent to withdraw the amendment.

The bill was then ordered to third reading.

Com. Sub. for S. B. 530, Relating to taxation of aircraft; on second reading, coming up in regular order, was read a second time.

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

On page fourteen, section nine, line three hundred forty-six, following the word “state”, by inserting the words “on or after July 1, 2020”.

On page fourteen, section nine, line three hundred forty-six, following the word “Aviation”, by striking out the word “Authority” and inserting in lieu thereof the word “Administration”.

On page fourteen, section nine, line three hundred forty-eight, by striking out the word “Authority” and inserting in lieu thereof the word “Administration”.

And,

On page sixteen, section nine, line three hundred eighty-two, following the word “to”, by inserting the word “former”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation; on second reading, coming up in regular order, was reported by the Clerk.

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

Com. Sub. for S. B. 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 641, Allowing WVCHIP flexibility in rate setting; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page two, section six-d, line twenty-five, by striking new subsection (e) in its entirety.

The bill was then ordered to third reading.

S. B. 647, Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page three, section six, line sixty, after the word "physician", by inserting the words "physician's assistant or advanced practice registered nurse".

The bill was then ordered to third reading.

S. B. 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 678, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“**ARTICLE 5. BUREAU OF PRISONS AND JAILS.**

§15A-5-10. Completing the GOALS Program satisfies the requirements for the DUI Safety and Treatment Program.

Notwithstanding any provision of this code to the contrary, any individual committed to the custody of the Commissioner of the Division of Corrections and Rehabilitation who successfully completes the Getting Over Addictive Lifestyles Successfully Program shall be deemed to have also completed the West Virginia DUI Safety and Treatment Program discussed in §17C-5A-3 of this code for purposes of reinstatement of driving privileges.

The Commissioner of the Division of Corrections and Rehabilitation shall provide each individual that completes the Getting Over Addictive Lifestyles Successfully Program with a certificate of completion. Upon completion of the Getting Over Addictive Lifestyles Successfully Program, the individual shall provide the certificate of completion to the Division of Motor Vehicles. The Division of Motor Vehicles shall accept the certificate as evidence of completion of the DUI Safety and Treatment Program.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 526**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Cooper, Householder, Kump, Pushkin, Rodighiero, Steele, Westfall and Worrell.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 527**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Cooper, Householder, Kump, Rodighiero, Steele, Westfall and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 678) passed.

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

Com Sub. for S. B. 678 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-5-10, relating to requiring that successful completion of the Getting Over Addicted Lifestyles Successfully Program be deemed as successful completion of the Division of Motor Vehicles’ DUI Safety and Treatment Program; requiring the Division of Corrections and Rehabilitation to provide each individual that completes the Getting Over Addicted Lifestyles Successfully Program with a certificate of completion; and requiring the Division of Motor Vehicles to accept the certificate of completion as evidence of completion of the DUI Safety and Treatment Program.”

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

Com. Sub. for S. B. 689, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 691, Limiting programs adopted by State Board of Education; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 692, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Canestraro, the bill was amended on page one, section eight, line thirteen, following the word “determined”, by striking out the period and inserting a colon and the following proviso:

“Provided, That in a trial of one or more felony offenses, the court may deny the motion if it finds that requiring the appearance at multiple trials will cause the victim of the violence or sexual assault undue mental or emotional distress.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 707, Relating to nursing career pathways; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was adopted, amending the bill on pages one and two, section eleven-a, lines thirteen through fifteen, by striking out paragraph (b) in its entirety and inserting in lieu thereof the following:

“The State Superintendent of Schools, the Chancellor for the Higher Education Policy Commission, and the Chancellor for the Community and Technical College System shall convene the West Virginia Nursing Career Pathway Workgroup consisting of:”

On page two, section eleven-a, line thirty-six, after the word “completion.”, by striking out the remainder of the paragraph and inserting in lieu thereof the following:

“The career pathway shall align affordable, effective and sustainable secondary to post-secondary nursing programs to increase credential attainment for a broad and diverse student population.”

On page three, section eleven-a, line forty-five, after the word “college” by striking out the period and adding “or career and technical education center.”

And,

On page three, section eleven-a, lines fifty-five and fifty-six, after the word “Accountability”, by striking out the words “every month that the commission meets” and inserting a comma and the words “as requested, but at least annually.”

The bill was then ordered to third reading.

S. B. 723, Requiring Department of Education develop plan based on analyzed data on school discipline; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page one, following the section heading, by striking out the remainder of the bill and inserting in lieu thereof the following:

“(a) The Department of Education shall analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county school boards against students enrolled in grades K-12. This program will include information by subgroup, including but not limited to, race, gender and disability.

(b) County boards of education shall implement the program outlined in subsection (a) of this section with the ultimate goal of improving disciplinary outcomes.

(c) The Department of Education shall prepare a report on the findings of statewide disciplinary data and, in addition to these findings, provide a summary of the progress of the statewide program and individual county programs, evaluating the extent to which the programs have successfully led to making a positive impact in disciplinary actions in West Virginia school systems. The Department of Education shall present these findings to the

Legislative Oversight Commission on Education Accountability every two years starting in the year 2022.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 528**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Waxman.

Absent and Not Voting: Bartlett, Cooper, Householder, Kump, Rodighiero, Steele, Westfall and Worrell.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 529**), and there were—yeas 85, nays 7, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, C. Martin, P. Martin, Waxman and Wilson.

Absent and Not Voting: Bartlett, Cooper, Householder, Kump, Rodighiero, Steele, Westfall and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 723) passed.

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

Whereupon, in the absence of objection the motion was withdrawn.

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

S. B. 723 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-43, relating to requiring West Virginia Department of Education to analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county school boards; and requiring the West Virginia Department of Education to prepare a report on the findings and provide a summary of the progress of the statewide program to Legislative Oversight Commission on Education Accountability every two years.”

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

On this question, the yeas and nays were taken (**Roll No. 530**), and there were—yeas 88, nays 5, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, Waxman and Wilson.

Absent and Not Voting: Bartlett, Cooper, Hicks, Householder, Kump, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 723) takes effect from its passage.

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

Com. Sub. for S. B. 729, Relating to awards and disability under Deputy Sheriff Retirement Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 739, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 8. MUNICIPAL CORPORATIONS.

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

§8-12-17. Sale or lease of municipal public utility.

In any case where a municipality owns a gas system, an electric system, a waterworks system, a sewer system or other public utility and a majority of not less than 60 percent of the members of the governing body thereof ~~shall deem~~ determines it for the best interest of ~~such the~~ municipality that ~~such the~~ utility be sold or leased, the governing body may so sell or lease ~~such the~~ gas system, electric system, waterworks system, sewer system or other public utility upon such terms and conditions as ~~said the~~ governing body in its discretion considers in the best interest of the municipality: *Provided*, That ~~such the~~ sale or lease may be made only upon: (1) The publication of notice of a hearing before the governing body of the municipality, as a Class I legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code, in a newspaper published and of general circulation in the municipality, ~~such the~~ publication to be made not earlier than 20 days and not later than seven days prior to the hearing; and (2) the approval by the Public Service Commission of West Virginia. The governing body, upon the approval of the sale or lease by a majority of its members of not less than 60 percent of the members of the governing body, shall have full power and authority to proceed to execute or effect ~~such~~

the sale or lease in accordance with the terms and conditions prescribed in the ordinance approved as aforesaid, and shall have power to do any and all things necessary or incident thereto: *Provided, however,* That if at any time after ~~such~~ the approval and before the execution of the authority under the ordinance, any person should present to the governing body an offer to buy ~~such~~ the public utility at a price which exceeds by at least five percent the sale price which shall have been so approved and authorized or to lease the same upon terms which the governing body, in its discretion, shall consider more advantageous to the municipality than the terms of the lease which shall have been previously approved as aforesaid, the governing body shall have the power to accept ~~such~~ the subsequent offer, and to make ~~such~~ the sale or ~~such~~ the lease to the person making the offer, upon approval of the offer by a majority of not less than 60 percent of the members of the governing body; but, if a sale shall have been approved by the governing body as aforesaid, and the subsequent proposition be for a lease, or, if a lease shall have been approved by the governing body, and the subsequent proposition shall be for a sale, the governing body shall have the authority to accept the same upon approval of the offer by a majority of not less than 60 percent of the members of the governing body. The person making ~~such~~ the proposition shall furnish bond, with security to be approved by the governing body, in a penalty of not less than 25 percent of ~~such~~ the proposed bid, conditioned to carry ~~such~~ the proposition into execution, if the same shall be approved by the governing body. In any case where any such public utility shall be sold or leased by the governing body as hereinabove provided, no part of the moneys derived from ~~such~~ the sale or lease shall be applied to the payment of current expenses of the municipality, but the proceeds of ~~such~~ the sale or lease ~~shall~~ may be applied in payment and discharge of any indebtedness created in respect to ~~such~~ the public utility, and in case there be no indebtedness, the governing body, in its discretion, shall have the power and authority to expend all such moneys when received for the purchase or construction of fire fighting equipment and buildings for housing ~~such~~ the equipment, a municipal building or city hall, and the necessary land upon which to locate the same, for capital investments in public works projects, vehicles and equipment and law-enforcement vehicles

and equipment, for the demolition of dilapidated and abandoned buildings, or for the construction of paved streets, avenues, roads, alleys, ways, sidewalks, sewers, storm water systems, floodwalls, and other like permanent improvements, for fulfilling municipal pension and other post-employment benefit obligations, or for reducing taxes, and for no other purposes. In case there be a surplus after the payment of ~~such~~ the indebtedness, the surplus shall be used as aforesaid.

The requirements of this section shall not apply to the sale or lease of any part of the properties of any such public utility determined by the governing body to be unnecessary for the efficient rendering of the service of ~~such~~ the utility.

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

PART VI. IMPOSITION OF RATES, FEES OR CHARGES.

§8-16-18. Rates, fees or charges for services rendered by works.

The governing body shall have plenary power and authority and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use and services rendered, or the improvement or protection of property, not to include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways, provided or afforded, by such works, to be paid by the person using the same, receiving the services thereof, or owning the property improved or protected thereby, and may readjust rates, fees or charges from time to time.

When two or more municipalities take joint action under the provisions of this article, the rates, fees or charges shall be established by each participating municipality, with the concurrence of the other participating municipality or municipalities as to the amount of the rates, fees or charges, and such rates, fees or charges may be the same with respect to each municipality, or they may be different.

Rates, fees or charges heretofore or hereafter established and maintained for the improvement or protection of property, not to include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways, provided or afforded by a municipal flood control system or flood walls, to be paid by the person owning the property improved or protected thereby, shall be collectible and enforceable from the time provided in any such ordinance, any provision of this or any other law to the contrary notwithstanding, if, at such time, such works, though not yet fully completed, are nearing completion and the governing body is reasonably assured that the works will be completed and placed in operation without unreasonable delay.

All rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of repair (including replacements), maintenance and operation of the works, and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to the provisions of this section are considered the revenues of the works. No such rates, fees or charges ~~shall~~ may be established until after a public hearing at which all the users of the works and owners of the property served, or to be served thereby, and others interested, shall have an opportunity to be heard concerning the proposed rates, fees or charges.

After introduction of the proposed ordinance fixing the rates, fees or charges and before the same is finally adopted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publishing the same as a ~~Class I-0~~ Class I legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code, and the publication area for the publication shall be such municipality or each such municipality, as the case may be. Said notice shall be published at least five days before the date fixed in such notice for the hearing, which hearing may be adjourned from time to time. No other or further notice to parties in interest ~~shall be~~ is required.

After such hearing the ordinance establishing rates, fees or charges, either as originally proposed or introduced, or as modified and amended, shall be adopted and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept

on file in the office of the board having charge of such works, and also in the office of the governing body or bodies, and shall be open to inspection by all parties in interest.

The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional class of users or property thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or adjustment of rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as provided in this section. The aggregate of the rates, fees or charges shall always be sufficient for the expenses of repair (including replacements), maintenance and operation, and for the sinking fund payments.

If any rate, fee or charge so established ~~shall not be~~ is not paid within 30 days after the same is due, the amount thereof, together with a penalty of 10 percent and reasonable attorney's fees, may be recovered by the board in a civil action in the name of the municipality or municipalities, and in the case of rates, fees or charges due for services rendered, such rates, fees or charges, if not paid when due, may, if the governing body so provide in the ordinance provided for under §8-16-7 of this code, constitute a lien upon the premises served by such works, which lien may be foreclosed against such lot, parcel of land or building so served, in accordance with the laws relating to the foreclosure of liens on real property. Upon failure of any person receiving any such service to pay for the same when due, the board may discontinue such service without notice.

ARTICLE 19. MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS.

§8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation.

Whenever a municipality or county commission, ~~shall~~ under the provisions of this article, ~~determine~~ decides to acquire, by purchase or otherwise, construct, establish, extend or equip a waterworks system or an electric power system, or to construct any

additions, betterments or improvements to any waterworks or electric power system, it shall cause an estimate to be made of the cost thereof, and may, by ordinance or order, provide for the issuance of revenue bonds under the provisions of this article, which ordinance or order shall set forth a brief description of the contemplated undertaking, the estimated cost thereof, the amount, rate or rates of interest, the time and place of payment and other details in connection with the issuance of the bonds. The bonds shall be in such form and shall be negotiated and sold in such manner and upon such terms as the governing body of such municipality or county commission may, by ordinance or order, specify. All the bonds and the interest thereon shall be exempt from all taxation by this state, or any county, municipality or county commission, political subdivision or agency thereof. Notwithstanding any other provision of this code to the contrary, the real and personal property which a municipality or county has acquired and constructed according to the provisions of this article, and any leasehold interest therein held by other persons, shall be ~~deemed~~ considered public property and shall be exempt from taxation by the state, or any county, municipality or other levying body, so long as the same is owned by the municipality or county: *Provided*, That with respect to electric power systems, this exemption for real and personal property shall be applicable only for the real and personal property: (1) Physically situate within the municipal or county boundaries of the municipality or county which acquired or constructed the electric power system and there was in place prior to the effective date of the amendments to this section made in the year 1992 an agreement between the municipality and the county commission for payments in lieu of tax; or (2) acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate. Notwithstanding anything contained in this statute to the contrary, this exemption shall be applicable to any leasehold or similar interest held by persons other than a municipality or county only if acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate: *Provided, however*,

That payments made to any county commission, county school board or municipality in lieu of tax pursuant to such an agreement shall be distributed as if the payments resulted from *ad valorem* property taxation. The bonds shall bear interest at a rate per annum set by the municipality or county commission, payable at such times, and shall be payable as to principal at such times, not exceeding 50 years from their date, and at such place or places, within or without the state, as shall be prescribed in the ordinance or order providing for their issuance. Unless the governing body of the municipality or county commission shall otherwise determine, the ordinance or order shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, constructed, established, extended or equipped, fix minimum rates or charges for water or electricity to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks or electric power system for the purpose of paying the bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of and interest upon the bonds and the proportion of the balance of the revenues, which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper maintenance and operation thereof. The rates or charges to be charged for the services from the waterworks or electric power system shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and reasonable reserves therefor, and to provide for the repair, maintenance and operation of the waterworks or electric power system, and to provide an adequate depreciation fund, and to make any other payments which shall be required or provided for in the ordinance or order authorizing the issuance of said bonds: *Provided, That the notice given by the municipality or county commission for a change in rates or charges to be charged for the services from the waterworks or electric power system, shall be provided by Class I legal advertisement in a newspaper of general circulation in its service territory not less than one week prior to the public hearing of the governing body of the municipality or the county*

commission required for the approval of the change in rates or charges.

ARTICLE 20. COMBINED SYSTEMS.

§8-20-10. Power and authority of municipality to enact ordinances and make rules and fix rates, fees or charges; deposit required for new customers; change in rates, fees or charges; failure to cure delinquency; delinquent rates, discontinuance of service; reconnecting deposit; return of deposit; fees or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

(a)(1) The governing body of a municipality availing itself of the provisions of this article shall have plenary power and authority to make, enact and enforce all necessary rules for the repair, maintenance, operation and management of the combined system of the municipality and for the use thereof. The governing body of a municipality also has the plenary power and authority to make, enact and enforce all necessary rules and ordinances for the care and protection of any such system for the health, comfort and convenience of the public, to provide a clean water supply, to provide properly treated sewage insofar as it is reasonably possible to do and, if applicable, to properly collecting and controlling the stormwater as is reasonably possible to do: *Provided*, That no municipality may make, enact or enforce any rule, regulation or ordinance regulating any highways, road or drainage easements or storm water facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) A municipality has the plenary power and authority to charge the users for the use and service of a combined system and to establish required deposits, rates, fees or charges for such purpose. Separate deposits, rates, fees or charges may be fixed for the water and sewer services respectively and, if applicable, the stormwater services, or combined rates, fees or for the combined water and sewer services, and, if applicable, the storm water services. Such deposits, rates, fees or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair,

maintenance and operation of the combined system, provide an adequate reserve fund, an adequate depreciation fund and pay the principal and interest upon all revenue bonds issued under this article. Deposits, rates, fees or charges shall be established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance. The rates, fees or charges shall be changed, from time to time, as necessary, consistent with the provisions of this article: Provided, That the notice given by the municipality for a change in rates or charges to be charged for the services from the waterworks or electric power system, shall be provided by Class I legal advertisement in a newspaper of general circulation in its service territory not less than one week prior to the public hearing of the governing body of the municipality required for the approval of the change in rates or charges.

(3) All new applicants for service shall indicate to the municipality or governing body whether they are an owner or tenant with respect to the service location. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(4) The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$100 or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water and sewage service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, service may not be reconnected or reinstated by the municipality or governing body until another deposit equal to \$100 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After 12 months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate to be set by the Public Service Commission: *Provided, That where the customer is a tenant, the municipality or*

governing body is not required to return the deposit until the time the tenant discontinues service with the municipality governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of 20 days after they become due, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality or governing body may terminate water services to a delinquent user of either water or sewage facilities, or both, 10 days after the water or sewage services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments: *Provided further*, That any termination of water service must comply with all rules and orders of the Public Service Commission: *Provided, however*, That nothing contained within the rules of the Public Service Commission ~~shall be deemed to require any~~ requires agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) Whenever any rates, fees or charges for services or facilities furnished remain unpaid for a period of 20 days after they become due, the user of the services and facilities provided shall be delinquent and the municipality or governing body may apply any deposit against any delinquent fee. The user is liable until such time as all rates, fees and charges are fully paid.

(c) All rates, fees or charges for water service, sewer service and, if applicable, stormwater service, whenever delinquent, as provided by ordinance of the municipality, shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served. The municipality has the plenary power and authority to enforce such lien in a civil action to recover the money due for services rendered plus court fees and costs and reasonable attorney's fees: *Provided*, That an owner of real property may not be held liable for the delinquent rates, fees or charges for services or facilities of a tenant, nor shall any lien attach to real property for the reason of delinquent rates, fees or charges for services or facilities of a tenant of the real property, unless the owner has

contracted directly with the municipality to purchase such services or facilities.

(d) Municipalities are hereby granted a deferral of filing fees or other fees and costs incidental to filing an action in magistrate court for collection of the delinquent rates and charges. If the municipality collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

(e) No municipality may foreclose upon the premises served by it for delinquent rates, fees or charges for which a lien is authorized by this section except through a civil action in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality has exhausted all other remedies for collection of debts with respect to such delinquencies prior to bringing the action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless the delinquency has been in existence or continued for a period of two years from the date of the first delinquency for which foreclosure is being sought.

(f) Notwithstanding any other provision contained in this article, a municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. §122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or acts are not contrary to any rules or orders of the Public Service Commission.

(g) Notice of a violation of a municipal stormwater ordinance or regulation shall be served in person to the alleged violator or by certified mail, return receipt requested. The notice shall state the

nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct violation of the municipal stormwater ordinance or regulation, the municipality may correct or have the corrections of the violation made and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(h) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.

§16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

A governing body has the power and duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each ~~and every~~ lot, parcel of real estate or building that is connected with and uses ~~such~~ the works by or through any part of the sewerage system of the municipality or that in any way uses or is served by ~~such~~ the works; and

(b) Stormwater works, to be paid by the owner of each ~~and every~~ lot, parcel of real estate or building that in any way uses or is

served by ~~such~~ the stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

(c) The governing body may change and readjust ~~such~~ the rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(d) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(e) The governing body may collect from all new applicants for service a deposit of \$50 or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, service may not be reconnected or reinstated by the governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After 12 months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant discontinues service with the governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of 20 days after they become due, the user of the services and facilities provided is delinquent. The user is liable until all rates, fees and charges are fully paid. The governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and

discontinue water services to a delinquent user of sewer facilities 10 days after the sewer services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments: *Provided, however,* That nothing contained within the rules of the Public Service Commission ~~shall be deemed to require any~~ may require agents or employees of the governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(f) ~~Such~~ The rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

(g) No such rates, fees or charges ~~shall~~ may be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

(h) After introduction of the ordinance fixing ~~such~~ the rates, fees or charges, and before the same is finally enacted, notice of ~~such~~ the hearing, setting forth the proposed schedule of rates, fees or charges, shall be given by publication as a ~~Class II-0~~ Class I legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code and the publication area for ~~such~~ the publication shall be the municipality. The first publication shall be made at least ~~ten~~ five days before the date fixed in the notice for the hearing.

(i) After the hearing, which may be adjourned, from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of the rates, fees and charges shall be kept on file in the office of the board having charge of the operation of ~~such~~ the works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges established for any class of users or property served shall be extended to cover any

additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(j) Any change or readjustment of ~~such~~ the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as hereinbefore provided: *Provided*, That if a change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for the expense of operation, repair and maintenance and for the sinking fund payments.

(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by ~~such~~ the works. If any service rate, fees or charge is not paid within 20 days after it is due, the amount thereof, together with a penalty of 10 percent and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality. The lien may be foreclosed against ~~such~~ the lot, parcel of land or building in accordance with the laws relating thereto. Where both water and sewer services are furnished by any municipality to any premises, the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of 20 days after they become due, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting the rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of water, sewer or stormwater facilities and shall not restore either water facilities or sewer facilities to any delinquent user of any such facilities until all delinquent rates, fees or charges for water, sewer and stormwater facilities, including reasonable interest and penalty

charges, have been paid in full, as long as ~~such~~ the actions are not contrary to any rules or orders of the Public Service Commission: *Provided*, That nothing contained within the rules of the Public Service Commission ~~shall be deemed~~ may be considered to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

(a)(1) The board may make, enact, and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection, and the use of any public service properties owned or controlled by the district. The board shall establish, in accordance with this article, rates, fees, and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation, and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article, and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees, and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial, and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of clauses (A), (B), and (C) of this paragraph; or

(E) Any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road, and drainage easements or stormwater facilities constructed, owned, or operated by the West Virginia Division of Highways.

(2) The board of a public service district with at least 4,500 customers and annual combined gross revenue of \$3 million ~~or more from its separate or combined water and sewer services providing water or sewer service separately or in combination~~ may make, enact, and enforce all needful rules in connection with the enactment or amendment of rates, fees, and charges of the district. At a minimum, these rules shall provide for:

(A) Adequate prior public notice of the contemplated rates, fees, and charges by causing a notice of intent to effect such a change to be provided to the customers of the district for the month immediately preceding the month in which the contemplated change is to be considered at a hearing by the board. ~~Such~~ The notice shall include a statement that a change in rates, fees, and charges is being considered, the time, date, and location of the hearing of the board at which the change will be considered and that the proposed rates, fees, and charges are on file at the office of the district for review during regular business hours. ~~Such~~ The notice shall be printed on, or mailed with, the monthly billing statement, or provided in a separate mailing.

(B) Adequate prior public notice of the contemplated rates, fees, and charges by causing to be published, after the first reading and approval of a resolution of the board considering ~~such~~ the revised rates, fees, and charges but not less than one week prior to the public hearing of the board on ~~such~~ the resolution, as a Class I legal advertisement, of the proposed action, in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication area for publication shall be all territory served by the district. If the district provides service in more than one county, publication shall be made in a newspaper of general circulation in each county that the district provides service.

(C) The public notice of the proposed action shall summarize the current rates, fees, and charges and the proposed changes to said rates, fees and charges; the date, time, and place of the public hearing on the resolution approving ~~such~~ the revised rates, fees, and charges and the place or places within the district where the proposed resolution approving the revised rates, fees, and charges may be inspected by the public. A reasonable number of copies of the proposed resolution shall be kept at the place or places and be made available for public inspection. The notice shall also advise that interested parties may appear at the public hearing before the board and be heard with respect to the proposed revised rates, fees and charges.

(D) The resolution proposing the revised rates, fees, and charges shall be read at two meetings of the board with at least two weeks intervening between each meeting. The public hearing may be conducted by the board prior to, or at, the meeting at which the resolution is considered for adoption on the second reading.

(E) Rates, fees, and charges approved by resolution of the board shall be forwarded in writing to the county commission with the authority to appoint the members of the board. The county commission shall publish notice of the proposed revised rates, fees, and charges by a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. Within 45 days of receipt of the proposed rates, fees, and charges, the county commission shall take action to approve, modify, or reject the proposed rates, fees, and charges, in its sole discretion. If, after 45 days, the county commission has not taken final action to approve, modify, or reject the proposed rates, fees and charges, as presented to the county commission, shall be effective with no further action by the board or county commission. In any event, this 45-day period shall be mandatory unless extended by the official action of both the board proposing the rates, fees, and charges, and the appointing county commission.

(F) Enactment of the proposed or modified rates, fees, and charges shall follow an affirmative vote by the county commission and shall be effective no sooner than 45 days following action. The 45-day waiting period may be waived by public vote of the county

commission only if the commission finds and declares the district to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the district to deliver continued and compliant public services.

(G) The public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by at least 750 customers or 25 percent of the customers served by the public service district, whichever is fewer, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees, and charges under the provisions of this subdivision may file a complaint regarding the rates, fees, and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: *Provided*, That any complaint or petition filed hereunder shall be filed within 30 days of the county commission's final action approving, modifying, or rejecting ~~such~~ the rates, fees and charges, or the expiration of the 45-day period from the receipt by the county commission, in writing, of the rates, fees, and charges approved by resolution of the board, without final action by the county commission to approve, modify, or reject ~~such~~ the rates, fees, and charges, and the circuit court shall resolve ~~said~~ the complaint: *Provided, however*, That the rates, fees, and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect, until set aside, altered, or amended by the circuit court in an order to be followed in the future.

(3) Where water, sewer, stormwater, or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of §24-3-8 of this code to the contrary, all new applicants for service shall

deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or \$50 with the district to secure the payment of service rates, fees, and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees, and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After 12 months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals, or charges for services or facilities furnished remain unpaid for a period of 20 days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees, and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, 10 days after the water or gas services become delinquent: *Provided, however*, That nothing contained within the rules of the Public Service Commission ~~shall be deemed~~ may be considered to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) ~~In the event that~~ If any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separate water facilities, sewer facilities, or stormwater

facilities, and the district owns and operates another kind of facility, either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission: *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the public service districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require or may, by petition to the circuit court of the county in which the property is located, compel or may require the Bureau for Public Health to compel all owners, tenants, or occupants of any houses, dwellings, and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Bureau for Public Health, including, but not limited to, vacuum and pressure systems,

approved under the provisions of §16-1-9 of this code, from the houses, dwellings, or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment, and disposal of sewage and waste matters from the houses, dwellings, and buildings where there is gravity flow or transportation by any other methods approved by the Bureau for Public Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this code and the houses, dwellings, and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this subsection is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance, and purchase of a pump or any other method approved by the Bureau for Public Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than 30 days after service of petition to the appropriate owners, tenants, or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant, or occupant of any house, dwelling, or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant, or occupant and sewage will flow by gravity or be transported by other methods approved by the Bureau for Public Health from the house, dwelling, or building into the sewer facilities, the district may charge, and the owner, tenant, or occupant shall pay, the rates and charges for services established under this article only after 30 days' notice of the

availability of the facilities has been received by the owner, tenant, or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's, or occupant's specific customer class.

(e) The owner, tenant, or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C. F. R. §122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined, and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant, or occupant shall pay the rates, fees, and charges for stormwater services established under this article only after 30 days' notice of the availability of the stormwater system has been received by the owner. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates, and charges of the district for either water facilities, sewer facilities, gas facilities, or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank, and priority with the lien on the premises of state, county, school, and municipal taxes. Nothing contained within the rules of the Public Service Commission ~~shall be deemed to~~ may require ~~any~~ agents or employees of the public service districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are

granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater, or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in §22-11-3 of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by §22-11-11 of this code, is exempt from the provisions of this section.

~~(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees, or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office~~

(i) (h) Notwithstanding any code provision to the contrary, a public service district may accept payment for all fees and charges due, in the form of a payment by a credit or check card transaction or a direct withdrawal from a bank account. The public service district may set a fee to be added to each transaction equal to the charge paid by the public service district for use of the credit or check card or direct withdrawal by the payor. The amount of ~~such~~ the fee shall be disclosed to the payor prior to the transaction and no other fees for the use of a credit or check card or direct withdrawal may be imposed upon the payor and the whole of ~~such~~

the charge or convenience fee shall be borne by the payor: *Provided*, That to the extent a public service district desires to accept payments in the forms described in this subsection and does not have access to the equipment or receive the services necessary to do so, the public service district shall first obtain three bids for services and equipment necessary to affect the forms of transactions described in this subsection and use the lowest qualified bid received. Acceptance of a credit or check card or direct withdrawal as a form of payment shall comport with the rules and requirements set forth by the credit or check card provider or banking institution.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

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

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

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air; transportation of oil, gas, or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph, or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas, or electricity by municipalities or others; sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of

the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of §16-13A-1; *et seq.* of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however,* That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of ~~such~~ the residential service: *Provided further,* That upon request of any of the customers of ~~such~~ the natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates, and charges of ~~such~~ the producer and for such length of time as the commission may consider to be proper.

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

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

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

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

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

(5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness in any proceeding before or

conducted by the commission, as granted and described in §24-2-10 of this code; and

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

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

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

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

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

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

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

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

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge

in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

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

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

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

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

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

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

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code to construct an electric generating facility described in this subsection or to make or construct a material modification of ~~such~~ the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

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

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

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

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

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

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

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

(f) Notwithstanding any other provisions of this article, the commission ~~shall have~~ has jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission ~~shall have~~ has jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.

§24-2-4a. Procedure for changing rates after June 30, 1981.

(a) After June 30, 1981, no public utility subject to this chapter, except for water and/or sewer utilities that are political

subdivisions of the state providing separate or combined services and having at least 4,500 customers and annual gross revenue of \$3 million or more from its separate or combined services, shall change, suspend or annul any rate, joint rate, charge, rental or classification except after 30 days' notice to the commission and the public, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates or charges shall go into effect; but the commission may enter an order suspending the proposed rate as hereinafter provided. The proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

(b) Whenever there ~~shall be~~ is filed with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, the commission may, either upon complaint or upon its own initiative without complaint, enter upon a hearing concerning the propriety of ~~such~~ the rate, charge, classification, regulation or practice; and, if the commission so orders, it may proceed without answer or other form of pleading by the interested parties, but upon reasonable notice, and, pending ~~such~~ the hearing and the decisions thereon, the commission, upon filing with ~~such~~ the schedule and delivering to the public utility affected thereby a statement in writing of its reasons for ~~such~~ the suspension, may suspend the operation of ~~such~~ the schedule and defer the use of ~~such~~ the rate, charge, classification, regulation or practice, but not for a longer period than 270 days beyond the time when ~~such~~ the rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make ~~such~~ the order in reference to ~~such~~ the rate, charge, classification, regulation

or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided*, That in the case of a public utility having 2,500 customers or less and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of ~~such~~ the schedule and defer the use of ~~such~~ the rate, charge, classification, regulation or practice, but not for a longer period than 120 days beyond the time when ~~such~~ the rate, charge, classification, regulation or practice would otherwise go into effect; and in the case of a public utility having more than 2,500 customers, but not more than 5,000 customers, and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of ~~such~~ the schedule and defer the use of ~~such~~ the rate, charge, classification, regulation or practice, but not for a longer period than 150 days beyond the time when ~~such~~ the rate, charge, classification, regulation or practice would otherwise go into effect; and in the case of a public utility having more than 5,000 customers, but not more than 7,500 customers, and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of ~~such~~ the schedule and defer the use of ~~such~~ the rate, charge, classification, regulation or practice, but not for a longer period than 180 days beyond the time when ~~such~~ the rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make ~~such~~ the order in reference to ~~such~~ the rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided, however*, That, in the case of rates established or proposed that increase by less than 25 percent of the gross revenue of the regulated public service district, there shall be no suspension period in the case of rates established by a public service district pursuant to §16-13A-9 of this code and the proposed rates of public service districts shall go into effect upon the date of filing with the

commission, subject to refund modification at the conclusion of the commission proceeding. In the case of rates established or proposed that increase by more than 25 percent of the gross revenue of the public service district, the district may apply for, and the commission may grant, a waiver of the suspension period and allow rates to be effective upon the date of filing with the commission. Notwithstanding the provisions of subsection (e) of this section, the public service district shall provide notice by Class 1 legal advertisement in a newspaper of general circulation in its service territory of the percentage increase in rates at least 14 days prior to the effective date of the increased rates. Any refund determined to be ~~determined to be~~ due and owing as a result of any difference between any final rates approved by the commission and the rates placed into effect subject to refund shall be refunded by the public service district as a credit against each customer's account for a period of up to six months after entry of the commission's final order. Any remaining balance which is not fully credited by credit within six months after entry of the commission's final order shall be directly refunded to the customer by check: *Provided further*, That if any such hearing and decision thereon is not concluded within the periods of suspension, as above stated, ~~such the~~ rate, charge, classification, regulation or practice shall go into effect at the end of ~~such the~~ period not subject to refund: *And provided further*, That if any such rate, charge, classification, regulation or practice goes into effect because of the failure of the commission to reach a decision, the same shall not preclude the commission from rendering a decision with respect thereto which would disapprove, reduce or modify any such proposed rate, charge, classification, regulation or practice, in whole or in part, but any such disapproval, reduction or modification shall not be deemed to require a refund to the customers of ~~such the~~ utility as to any rate, charge, classification, regulation or practice so disapproved, reduced or modified. The fact of any rate, charge, classification, regulation or practice going into effect by reason of the commission's failure to act thereon ~~shall~~ does not affect the commission's power and authority to subsequently act with respect to any such application or change in any rate, charge, classification, regulation or practice. Any rate, charge, classification, regulation or practice which shall be approved, disapproved, modified or

changed, in whole or in part, by decision of the commission shall remain in effect as so approved, disapproved, modified or changed during the period or pendency of any subsequent hearing thereon or appeal therefrom. Orders of the commission affecting rates, charges, classifications, regulations or practices which have gone into effect automatically at the end of the of the suspension period are prospective in effect.

(c) At any hearing involving a rate sought to be increased or involving the change of any rate, charge, classification, regulation or practice, the burden of proof to show the justness and reasonableness of the increased rate or proposed increased rate, or the proposed change of rate, charge, classification, regulation or practice shall be upon the public utility making application for ~~such~~ the change. The commission shall, whenever practicable and within budgetary constraints, conduct one or more public hearings within the area served by the public utility making application for ~~such~~ the increase or change, for the purpose of obtaining comments and evidence on the matter from local ratepayers.

(d) Each public utility subject to the provisions of this section shall be required to establish, in a written report which shall be incorporated into each general rate case application, that it has thoroughly investigated and considered the emerging and state-of-the-art concepts in the utility management, rate design and conservation as reported by the commission under §24-1-1(c) of this code as alternatives to, or in mitigation of, any rate increase. The utility report shall contain as to each concept considered the reasons for adoption or rejection of each. When in any case pending before the commission all evidence shall have been taken and the hearing completed, the commission shall render a decision in ~~such~~ the case. The failure of the commission to render a decision with respect to any such proposed change in any such rate, charge, classification, regulation or practice within the various time periods specified in this section after the application therefor shall constitute neglect of duty on the part of the commission and each member thereof.

(e) Other than as provided in subsection (b) of this section relating to public service districts, where more than 20 members of

the public are affected by a proposed change in rates, it shall be a sufficient notice to the public within the meaning of this section if ~~such~~ the notice is published as a Class II legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code and the publication area for ~~such~~ the publication shall be the community where the majority of the resident members of the public affected by ~~such~~ the change reside or, in case of nonresidents, have their principal place of business within this state.

(f) The commission may order rates into effect subject to refund, plus interest in the discretion of the commission, in cases in which the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial distress, or in which the costs upon which these rates are based are subject to modification by the commission or another regulatory commission and to refund to the public utility. In ~~such~~ that case the commission may require ~~such~~ the public utility to enter into a bond in an amount deemed by the commission to be reasonable and conditioned upon the refund to the persons or parties entitled thereto of the amount of the excess if ~~such~~ the rates so put into effect are subsequently determined to be higher than those finally fixed for ~~such~~ the utility.

(g) No utility regulated under the provisions of this section may make application for a general rate increase while another general rate application is pending before the commission and not finally acted upon, except pursuant to the provisions of subsection (f) of this section. The provisions of this subsection shall not be construed so as to prohibit any such rate application from being made while a previous application which has been finally acted upon by the commission is pending before or upon appeal to the West Virginia Supreme Court of Appeals.

§24-2-11. Requirements for certificate of public convenience and necessity.

(a) A public utility, person or corporation other than a political subdivision of the state providing water or sewer services and having at least 4,500 customers and annual gross combined

revenues of \$3 million dollars or more may not begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in section one, article two of this chapter, nor apply for, nor obtain any franchise, license or permit from any municipality or other governmental agency, except ordinary extensions of existing systems in the usual course of business, unless and until it shall obtain from the Public Service Commission a certificate of public convenience and necessity authorizing ~~such~~ the construction franchise, license or permit.

(b) Upon the filing of any application for the certificate, and after hearing, the commission may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, the certificate of convenience and necessity: *Provided*, That the commission, after it gives proper notice and if no substantial protest is received within 30 days after the notice is given, may waive formal hearing on the application. Notice shall be given by publication which shall state that a formal hearing may be waived in the absence of substantial protest, made within 30 days, to the application. The notice shall be published as a Class I legal advertisement in compliance with ~~the provisions of §59-3-1 et seq.~~ of this code. The publication area shall be the proposed area of operation.

(c) Any public utility, person or corporation subject to the provisions of this section other than a political subdivision of the state providing water and/or sewer services having at least 4500 customers and combined annual gross revenue of \$3 million dollars or more shall give the commission at least 30 days' notice of the filing of any application for a certificate of public convenience and necessity under this section: *Provided*, That the commission may modify or waive the 30-day notice requirement and shall waive the 30-day notice requirement for projects approved by the Infrastructure and Jobs Development Council.

(d) The commission shall render its final decision on any application filed under the provisions of this section or §24-2-11a of this code within 270 days of the filing of the application and within 90 days after final submission of any such application for decision following a hearing: *Provided*, That if the application is

for authority to construct a water and sewer project and the projected total cost is less than \$10 million, the commission shall render its final decision within 225 days of the filing of the application.

(e) The commission shall render its final decision on any application filed under the provisions of this section that has received the approval of the Infrastructure and Jobs Development Council pursuant to §31-15A-1 *et seq.* of this code within 180 days after filing of the application: *Provided*, That if a substantial protest is received within 30 days after the notice is provided pursuant to subsection (b) of this section, the commission shall render its final decision within 270 days or 225 days of the filing of the application, whichever is applicable as determined in subsection (d) of this section.

(f) If the projected total cost of a project which is the subject of an application filed pursuant to this section or §24-2-11a of this code is greater than \$50 million, the commission shall render its final decision on any such application filed under the provisions of this section or §24-2-11a of this code within 400 days of the filing of the application and within 90 days after final submission of any such application for decision after a hearing.

(g) If a decision is not rendered within the time frames established in this section, the commission shall issue a certificate of convenience and necessity as applied for in the application.

(h) The commission shall prescribe rules as it ~~may deem~~ considers proper for the enforcement of the provisions of this section; and, in establishing that public convenience and necessity do exist, the burden of proof shall be upon the applicant.

(i) Pursuant to the requirements of this section, the commission may issue a certificate of public convenience and necessity to any intrastate pipeline, interstate pipeline or local distribution company for the transportation in intrastate commerce of natural gas used by any person for one or more uses, as defined by rule, by the commission in the case of:

(1) Natural gas sold by a producer, pipeline or other seller to the person; or

(2) Natural gas produced by the person.

(j) A public utility, including a public service district, which has received a certificate of public convenience and necessity after July 8, 2005, from the commission and has been approved by the Infrastructure and Jobs Development Council is not required to, and cannot be compelled to, reopen the proceeding if the cost of the project changes but the change does not affect the rates established for the project.

(k) Any public utility, person or corporation proposing any electric power project that requires a certificate under this section is not required to obtain ~~such~~ the certificate before applying for or obtaining any franchise, license or permit from any municipality or other governmental agency.

(l) Water or sewer utilities that are political subdivisions of the state and having at least 4,500 customers and combined gross revenues of \$3 million dollars or more desiring to pursue construction projects that are not in the ordinary course of business shall provide adequate prior public notice of the contemplated construction and proposed changes to rates, fees and charges, if any, as a result of ~~such~~ the construction to both current customers and those persons who will be affected by the proposed construction as follows:

(1) Adequate prior public notice of the contemplated construction by causing a notice of intent to pursue a project that is not in the ordinary course of business to be specified on the monthly billing statement of the customers of the utility for the month immediately preceding the month in which an ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any, is to be before the governing body for the public hearing on the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any.

(2) Adequate prior public notice of the contemplated construction by causing to be published as a Class I legal advertisement of the proposed public hearing on the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any, in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code. The publication area for publication shall be all territory served by the political subdivision. If the political subdivision provides service in more than one county, publication shall be made in a newspaper of general circulation in each county that the political subdivision provides service.

(3) The public notice of the proposed construction shall state the scope of the proposed construction; a summary of the current rates, fees and charges, and proposed changes to said rates, fees and charges, if any; the date, time and place of the public hearing on the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any; and the place or places within the political subdivision where the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any, may be inspected by the public. A reasonable number of copies of the ordinance or resolution shall be kept at the place or places and be made available for public inspection. The notice shall also advise that interested parties may appear at the public hearing before the political subdivision and be heard with respect to the proposed construction and the proposed rates, fees and charges, if any.

(4) The ordinance or resolution on the proposed construction and the proposed rates, fees and charges shall be read at two meetings of the governing body with at least two weeks intervening between each meeting. The public hearing may be conducted prior to, or at, the meeting of the governing body at which the ordinance or resolution approving the proposed construction is considered on second reading.

(5) Enactment or adoption of the ordinance or resolution approving the proposed construction and the proposed rates, fees and charges shall follow an affirmative vote of the governing body and the approved rates shall go into effect no sooner than 45 days

following the action of the governing body. If the political subdivision proposes rates that will go into effect prior to the completion of construction of the proposed project, the 45-day waiting period may be waived by public vote of the governing body only if the political subdivision finds and declares the political subdivision to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the political subdivision to deliver continued and compliant public services: *Provided*, That, if the political subdivision is a public service district, in no event ~~shall~~ may the rate become effective prior to the date that the county commission has entered an order approving or modifying the action of the public service district board.

(6) Rates, fees and charges approved by an affirmative vote of the public service district board shall be forwarded in writing to the county commission with the authority to appoint the members of the public service board of the public service district. The county commission shall, within 45 days of receipt of the proposed rates, fees and charges, take action to approve, modify, or reject the proposed rates, fees and charges, in its sole discretion. If, after 45 days, the county commission has not taken final action to approve, modify, or reject the proposed rates, fees and charges, the proposed rates, fees and charges, as presented to the county commission, shall be effective with no further action by the board or county commission. In any event this 45-day period may be extended by official action of both the board proposing the rates, fees and charges and the appointing county commission.

(7) The county commission shall provide notice to the public by a Class I legal advertisement of the proposed action, in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code, of the meeting where it shall consider the proposed increases in rates, fees and charges no later than one week prior to the meeting date.

(8) A public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by ~~at least 750 or~~ 25 percent of the customers served by the public service district, ~~whichever is fewer~~, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges under the provisions of this

subsection (l) may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: *Provided*, That any complaint or petition filed hereunder shall be filed within 30 days of the county commission's final action approving, modifying or rejecting ~~such~~ the rates, fees and charges, or the expiration of the 45 day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject ~~such~~ the rates, fees and charges, and the circuit court shall resolve said complaint: *Provided, however*, That the rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect, until set aside, altered or amended by the circuit court in an order to be followed in the future.

ARTICLE 2H. POWER OF COMMISSION TO ORDER MEASURES UP TO AND INCLUDING THE ACQUISITION OF DISTRESSED AND FAILING WATER AND WASTEWATER UTILITIES.

§24-2H-1. Short title.

This article shall be known and cited as the Distressed and Failing Utilities Improvement Act.

§24-2H-2. Legislative Findings.

(a) The provision of safe drinking water and the collection and treatment of wastewater has resulted in a drastic reduction in the incidence of disease, increase in life expectancy, and other major public health advancements.

(b) Development of water and wastewater infrastructure has advanced economic development through increased production and productivity within West Virginia's economic sectors and commercial expansion geographically throughout the state.

(c) A number of water and wastewater utilities face substantial capital investment needs to maintain and replace aging infrastructure with limited financial resources.

(d) For some water and wastewater utilities, adequately addressing infrastructure needs may adversely affect their ability to maintain reasonable rates and ability to borrow funds to address such needs.

(e) Many water and wastewater utilities have experienced a loss of customers resulting from decline in populations served which has created an additional rate burden on the remaining population.

(f) Failure to timely address infrastructure needs has resulted in the inability of water and wastewater utilities to adequately serve customers and maintain regulatory compliance, thereby threatening human health and hindering economic growth.

(g) West Virginia needs a comprehensive plan to confront the financial, organizational, and regulatory challenges faced by water and wastewater utilities in the state to ensure that all citizens of West Virginia have access to safe drinking water and adequate and safe wastewater treatment.

§24-2H-3. Definitions.

A ‘distressed utility’ is a water or wastewater utility, that for financial, operational or managerial reasons:

(1) (A) Is in continual violation of statutory or regulatory standards of the Bureau for Public Health, the Department of Environmental Protection or the commission, which affect the water quality, safety, adequacy, efficiency or reasonableness of the service provided by the water or wastewater utility;

(B) Fails to comply within a reasonable period of time with any final, nonappealable order of the Department of Environmental Protection, Bureau for Public Health or the commission concerning the safety, adequacy, efficiency or reasonableness of service, including, but not limited to, the availability of water, the potability

of water, the palatability of water or the provision of water at adequate volume and pressure and the collection and treatment of wastewater;

(2) Is no longer able to provide adequate, efficient, safe and reasonable utility services; or

(3) Fails to timely pay some or all of its financial obligations, including, but not limited to, its federal and state tax obligations and its bond payments to the West Virginia Water Development Authority, the United States Department of Agriculture (USDA) or other bondholders; fails to maintain its debt service reserve; or fails to submit an audit as required by its bond or loan documents or state law.

‘Failing water or wastewater utility’ means a public utility that:

(1) Meets the definition of a distressed water or wastewater utility; and either:

(2) Has not, after a reasonable time period, been stabilized and improved by corrective measures put in place under §24-2H-4 of this code; or

(3) Has had the requirements of §24-2H-4 of this code suspended for good cause shown by an order of the commission.

‘Capable proximate water or wastewater utility’ means a public utility which regularly provides adequate, safe and reasonable service of the same type as the distressed utility and is situated close enough to the facilities of a distressed utility that operational management is reasonable, financially viable, and nonadverse to the interests of the current customers of the nondistressed utility.

§24-2H-4. Preparation of List of potentially unstable water and wastewater utilities.

Annually, the commission shall prepare a list of water and wastewater utilities that appear to be financially unstable by reviewing annual reports, rate case filings and other financial data available to it. Commission staff shall contact each utility placed

on the list and provide advice and assistance in resolving any financial instability or managerial or operational issues that are contributing to the utility's financial instability.

§24-2H-5. Determination of whether a utility qualifies as a 'distressed utility', 'failing utility', or a 'capable proximate utility'.

(a) In determining whether a utility is distressed or failing, the commission shall consider the following factors:

(1) The financial, managerial and technical ability of the utility;

(2) The level of expenditures necessary to make improvements to the water or wastewater utility to assure compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service and the impact of those expenditures on customer rates;

(3) The opinion and advice, if any, of the Department of Environmental Protection and the Bureau for Public Health as to steps that may be necessary to assure compliance with applicable statutory or regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service;

(4) The status of the utility's bond payments and other financial obligations;

(5) The status and result of any corrective measures previously put into place under §24-2H-4 of this code; and

(6) Any other relevant matter.

(b) In determining whether a utility is a capable proximate utility, the commission shall consider the following factors:

(1) The financial, managerial and technical ability of all proximate public utilities providing the same type of service;

(2) Expansion of the franchise or operating area of the acquiring utility to include the service area of the distressed utility;

(3) The financial, managerial, operational and rate demands that may result from the current proceeding and the cumulative impact of other demands where the utility has been identified as a capable proximate utility; and

(4) Any other relevant matter.

§24-2H-6. Notice to distressed or failing utility and formal proceeding.

(a) A proceeding under this article may be initiated by the commission on its own motion, or by the staff of the commission, or any other person or entity having a legal interest in the financial, managerial or operational condition of the utility, by filing a petition with the commission. In any such petition, the utility shall be named as the respondent. The commission shall include as additional parties any capable proximate public and private utilities that may be able to acquire the utility.

(b) The commission shall hold an evidentiary and public hearing(s) in the utility's service area. The commission shall give notice of the time, place and subject matter of the hearing as follows:

(1) A Class I legal publication in a qualified newspaper pursuant to §59-3-2(a) of this code in the county or counties where the utility is located to take place no more than 10 days before the date of the hearing;

(2) Issuance of a press release;

(3) Written notice by certified mail or registered mail to:

(A) The utility;

(B) The Consumer Advocate Division;

(C) Capable proximate public or private utility(s) that were made parties to the proceeding; and

(D) The county commission if the utility is a public service district; or

(E) The municipality if the utility is owned and operated by the municipality.

(4) The utility shall give notice to its customers of the time, place and subject matter of the hearing either as a bill insert or printed on its monthly bill statement as ordered by the commission.

(c) The public hearing shall be conducted to receive public comments, including, but not limited to, comments regarding possible options available to bring the distressed or failing utility into compliance with appropriate statutory and regulatory standards concerning actual or imminent public health problems or unreasonable quality and reliability service standards. At the evidentiary hearing, the commission shall receive evidence to determine if the utility is a distressed or failing utility and whether a capable proximate utility should acquire the utility. If there is more than one capable proximate utility, then sufficient evidence should be presented to allow the commission to determine the appropriate capable proximate utility to acquire the distressed or failing utility.

§24-2H-7. Commission order for acquisition of failing utility; list of distressed and failing utilities to Legislature.

(a) Following the evidentiary hearing, the commission shall enter a final order stating whether the utility is a distressed or failing utility and identifying the capable proximate utilities, if any, as defined in §24-2H-3 of this code. If the commission determines that a utility is a distressed utility, then the commission may make an order consistent with subsection (b) of this section. If the commission determines that the utility is a failing utility, then the commission may order the acquisition of the failing utility by the most suitable capable proximate water or wastewater utility, if there are more than one.

(b) Before the commission may designate a water or wastewater utility as failing and order acquisition by a capable proximate utility it shall determine whether there are any alternatives to an ordered acquisition. If the commission determines that an alternative to designating a utility as failing and ordering an acquisition is reasonable and cost effective, it may

order the distressed utility and, if applicable to the alternative a capable proximate utility, to implement the alternative. Commission staff shall work with the utility to implement the alternative, as necessary. Alternatives that the commission may consider include, but are not limited to, the following:

(1) Reorganization of the utility under new management or a new board, subject to the approval of the applicable county commission(s) or municipal government;

(2) Operation of the distressed utility by another public utility or management or service company under a mutually agreed arms-length contract;

(3) Appointment of a receiver to assure the provision of adequate, efficient, safe and reasonable service and facilities to the public pursuant to §24-2-7(b) of this code;

(4) Merger of the water or wastewater utility with one or more other public utilities, subject to the approval of the applicable county commission(s) or municipal government;

(5) The acquisition of the distressed utility through a mutual agreement made at arms-length; and

(6) Any viable alternative other than an ordered acquisition by a capable proximate utility.

(c) The commission shall provide a list of utilities designated by a final order of the commission as a distressed or failing utility to the Legislature as part of its annual Management Summary Report beginning in the 2021 reporting period and annually thereafter. The commission shall provide the same list to the Water Development Authority and the Infrastructure and Jobs Development Council on or before January 31 of each year beginning in 2021.

§24-2H-8. Commission approval of operating agreement, acquisition price; rates for distressed and failing utilities; improvement plan; debt obligations; cost recovery.

(a) After an order has been entered pursuant to §24-2H-4 of this code, the distressed utility and acquiring utility shall file a petition with the commission under §24-2-12 of this code to approve the

necessary operating agreement if such alternative is directed by the commission. After an order has been entered pursuant to §24-2H-7 of this code, the failing utility and acquiring utility shall file a petition with the commission under §24-2-12 of this code, to approve the purchase price of the acquisition. Where the parties are unable to agree on an acquisition price, the filing may request that an evidentiary hearing be held so that the commission may determine the acquisition price and any other issues related to the acquisition. The acquisition price must, at a minimum, satisfy all outstanding loans, tax obligations, required grant repayment, liens and indebtedness owed by the failing utility or the acquiring utility must agree to assume the indebtednesses if legally permitted. The acquiring utility shall consult with the lenders or lienholders regarding payment in full or the assumption, to the extent legally permissible, of any outstanding obligations of the failing utility.

(b) The parties to an acquisition may propose to the commission other methods of determining the acquisition price.

(c) As part of the proceeding, the acquiring utility may propose to the commission that it be permitted for a reasonable period of time after the date of acquisition, to charge and collect rates from the customers of the failing utility pursuant to a separate tariff which may be higher or lower than the existing tariff of the distressed or failing utility or may allow a surcharge on both the acquired and existing customers. A separate tariff or rate filing must be made by the acquiring utility before the commission will consider any increase in rates or allow a surcharge to be placed on the acquiring utility's acquired or existing ratepayers.

(d) As part of this proceeding, the acquiring utility shall submit to the commission for approval a plan, including a timetable for bringing the failing utility into compliance with applicable statutory and regulatory standards, including, but not limited to, plans for regionalization. The acquiring utility shall have previously obtained the approval of the plan from the Department of Environmental Protection and the Bureau for Public Health, as applicable and those agencies are directed to use their full discretion in working towards long-term solutions that will support compliance. The failing utility shall cooperate with the acquiring utility in negotiating agreements with state and federal agencies,

including, but not limited to, negotiation of hold harmless agreements, consent orders or enforcement moratoria during any period of remediation. In addition, the failing utility shall cooperate with the acquiring utility in obtaining the consent of the failing utility's and the acquiring utility's bondholder(s) to the acquisition. The acquiring utility must present to the commission as part of its financing plan, documentation on how the failing utility's indebtedness will be paid or assumed.

(e) A nonprofit acquiring public utility may seek grant funding from the Distressed Utilities Account established pursuant to §31-15A-9(i) of this code to repair, maintain and replace the distressed water and wastewater utilities facilities as needed. The reasonably and prudently incurred costs of the acquiring utility shall be recoverable in rates as provided in §24-2H-9 of this code.

(f) If the distressed or failing utility is a public service district, then the commission shall make a recommendation to the respective county commission(s) with regard to the acquisition of distressed or failing utilities as provided in §16-13A-2(a)(2) of this code. If the distressed or failing utility is a municipal corporation, then the commission shall make a recommendation to the respective municipal council with regard to the acquisition of distressed or failing utilities as provided in §8-12-17 of this code.

(g) The capable proximate utility may propose one or more of the cost recovery methods or incentives set forth in §24-2H-9 of this code as part of its petition for approval from the commission.

§24-2H-9. Recovery of costs for acquisition, operation, repairs and improvements to distressed or failing utility facilities.

The commission may approve an appropriate and reasonable cost recovery mechanism to allow the capable proximate utility to recover its acquisition costs and projected cost of service of operating, maintaining and improving the facilities of the failing water or wastewater utility or its net costs incurred for operating, maintaining and improving the distressed utility under an operating agreement. The cost recovery mechanism may include a surcharge or surcharges on both acquired and existing customers if approved

by the commission in a separate rate or tariff proceeding which shall be considered by the commission on an expedited basis without the need for a full base rate proceeding. Rate increments and surcharges established pursuant to this section shall be subject to adjustment on an annual basis to reflect changes in costs, additional projected capital and operating costs and true-up of any over or under recoveries of costs. Cost recovery mechanisms may also include:

(1) A surcharge above existing rates that allows recovery of additional incremental cost increases, net of contributions necessary to operate, maintain and improve the failing utility's service level to an acceptable level and into compliance with all applicable regulatory standards;

(2) An acquisition adjustment to private for profit utilities as an incentive to acquire a failing utility;

(3) An increased return on investment as an incentive to acquire a failing utility; or

(4) Any other incentive method proposed by the acquiring utility if the method is determined by the commission to be appropriate, reasonable and in the public interest.

CHAPTER 31. CORPORATIONS.

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

§31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements; West Virginia Infrastructure Lottery Revenue Debt Service Fund; use of funds for projects.

(a) The Water Development Authority shall create and establish a special revolving fund of moneys made available by appropriation, grant, contribution or loan to be known as the 'West Virginia Infrastructure Fund'. This fund shall be governed,

administered and accounted for by the directors, officers and managerial staff of the Water Development Authority as a special purpose account separate and distinct from any other moneys, funds or funds owned and managed by the Water Development Authority. The infrastructure fund shall consist of sub-accounts, as deemed necessary by the council or the Water Development Authority, for the deposit of: (1) Infrastructure revenues; (2) any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the infrastructure fund from any source, public or private; (3) amounts received as payments on any loans made by the Water Development Authority to pay for the cost of a project or infrastructure project; (4) insurance proceeds payable to the Water Development Authority or the infrastructure fund in connection with any infrastructure project or project; (5) all income earned on moneys held in the infrastructure fund; (6) all funds deposited in accordance with §31-15B-4 of this code; and (7) all proceeds derived from the sale of bonds issued pursuant to §31-15B-1 *et seq.* of this code.

Any money collected pursuant to this section shall be paid into the West Virginia infrastructure fund by the state agent or entity charged with the collection of the same, credited to the infrastructure fund, and used only for purposes set forth in this article or §31-15B-1 *et seq.* of this code.

Amounts in the infrastructure fund shall be segregated and administered by the Water Development Authority separate and apart from its other assets and programs. Amounts in the infrastructure fund may not be transferred to any other fund or account or used, other than indirectly, for the purposes of any other program of the Water Development Authority, except that the Water Development Authority may use funds in the infrastructure fund to reimburse itself for any administrative costs incurred by it and approved by the council in connection with any loan, loan guarantee, grant or other funding assistance made by the Water Development Authority pursuant to this article.

(b) Notwithstanding any provision of this code to the contrary, amounts in the infrastructure fund shall be deposited by the Water Development Authority in one or more banking institutions:

Provided, That any moneys so deposited shall be deposited in a banking institution located in this state. The banking institution shall be selected by the Water Development Authority by competitive bid. Pending the disbursement of any money from the infrastructure fund as authorized under this section, the Water Development Authority shall invest and reinvest the moneys subject to the limitations set forth in §31-18-1 *et seq.* of this code.

(c) To further accomplish the purposes and intent of this article and §31-15B-1 *et seq.* of this code, the Water Development Authority may pledge infrastructure revenues and from time to time establish one or more restricted accounts within the infrastructure fund for the purpose of providing funds to guarantee loans for infrastructure projects or projects: *Provided*, That for any fiscal year the Water Development Authority may not deposit into the restricted accounts more than 20 percent of the aggregate amount of infrastructure revenues deposited into the infrastructure fund during the fiscal year. No loan guarantee shall be made pursuant to this article unless recourse under the loan guarantee is limited solely to amounts in the restricted account or accounts. No person shall have any recourse to any restricted accounts established pursuant to this subsection other than those persons to whom the loan guarantee or guarantees have been made.

(d) Each loan, loan guarantee, grant or other assistance made or provided by the Water Development Authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the Water Development Authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

(1) The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefor, if any;

(2) The specific purposes for which the loan or grant proceed shall be expended or the benefits to accrue from the loan guarantee

or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

(3) The duties and obligations imposed regarding the acquisition, construction, improvement or operation of the project or infrastructure project; and

(4) The agreement of the governmental agency to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the Water Development Authority or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the Water Development Authority the right to appoint a receiver for the project or infrastructure if the project sponsor should default on any terms of the agreement.

(e) Any resolution of the Water Development Authority approving loan, loan guarantee, grant or other assistance shall include a finding and determination that the requirements of this section have been met.

(f) The interest rate on any loan to governmental, quasi-governmental, or not for profit project sponsors for projects made pursuant to this article shall not exceed three percent per annum. Due to the limited availability of funds available for loans for projects, it is the public policy of this state to prioritize funding needs to first meet the needs of governmental, quasi- governmental and not for profit project sponsors and to require that loans made to for-profit entities shall bear interest at the current market rates. Therefore, no loan may be made by the council to a for-profit entity at an interest rate which is less than the current market rate at the time of the loan agreement.

(g) The Water Development Authority shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to the receipts, disbursements, contracts, leases, assignments, loans, grants and all other matters relating to the financial operation of the infrastructure fund, including the operating of any sub-account within the infrastructure fund. The person performing such audit shall furnish

copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Legislature's Joint Committee on Government and Finance.

(h) There is hereby created in the Water Development Authority a separate, special account which shall be designated and known as the 'West Virginia Infrastructure Lottery Revenue Debt Service Fund,' into which shall be deposited annually for the fiscal year beginning July 1, 2011, and each fiscal year thereafter, the first \$6 million transferred pursuant to §29-22-18d of this code and any other funds provided therefor: *Provided*, That such deposits and transfers are not subject to the reservations of funds or requirements for distributions of funds established by §31-15A-10 and §31-15A-11 of this code. Moneys in the West Virginia Infrastructure Lottery Revenue Debt Service Fund shall be used to pay debt service on bonds or notes issued by the Water Development Authority for watershed compliance projects as provided in section seventeen-b of this article, and to the extent not needed to pay debt service, for the design or construction of improvements for watershed compliance projects. Moneys in the West Virginia Infrastructure Lottery Revenue Debt Service Fund not expended at the close of the fiscal year do not lapse or revert to the General Fund but are carried forward to the next fiscal year.

(i) The Water Development Authority shall establish a separate restricted account within the infrastructure fund to be expended for the repair and improvement of failing water and wastewater systems by nonprofit public utilities from grants approved by the Council and supported by recommendations from the Public Service Commission in accordance with the plan developed under §24-2H-1 et seq. of this code. The restricted account shall be known as the 'Distressed Utilities Account'. Annually, the council may request the Water Development Authority to transfer from the uncommitted loan balances for each year a total amount not to exceed \$5 million to the restricted account to fund the grants approved by the council during that fiscal year. Notwithstanding the provisions of §31-15A-10(b) of this code, the council may

approve grants from this account for up to 100 percent of the cost of failing utility repairs, replacements and improvements and such grant along with other grants awarded by the council may exceed 50 percent of the total project cost: *Provided*, That at no time may the balance of the restricted account exceed \$5 million.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Canestraro, Cooper, Hicks, Householder, Kump, Nelson, Sponaugle, Steele, Westfall, Williams and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 532**), and there were—yeas 76, nays 14, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Anderson, Barnhart, Bibby, Butler, Cadle, Fast, C. Martin, P. Martin, McGeehan, Pack, Paynter, Porterfield, Sypolt and Toney.

Absent and Not Voting: Bartlett, Cooper, Doyle, Householder, Kump, Nelson, Queen, Steele, Westfall and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 739) passed.

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

Com. Sub. for S. B. 746, Providing contracted managed care companies access to uniform maternal screening tool; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan; on second reading, coming up in regular order, was reported by the Clerk.

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

S. B. 748, Increasing awareness of palliative care services; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 60. PALLIATIVE CARE.

§16-60-1. Purpose and findings.

(a) The purpose of this article is to increase awareness regarding the palliative care services in West Virginia.

(b) The Legislature finds that palliative care access remains a challenge across the state and increasing awareness of the availability of this service will align with many of the state’s goals to improve patients’ health care experience and care quality.

§16-60-2. Definitions.

As used in this article:

‘Palliative care’ means an interdisciplinary team-based model of care process designed to relieve suffering and improve quality of life for patients and families facing serious, though not necessarily terminal, illness. The care should be available at any stage of illness from birth to advanced age and may be offered simultaneously with disease modifying interventions, including attempts for cure or remission.

‘Interdisciplinary team’ means a care team comprised of medical and nonmedical disciplines with specialty training or certification in palliative care and may include ~~and includes~~ volunteers and lay workers ~~in healthcare~~. This team ~~may include~~, includes, at a minimum, the following: (1) A physician; (2) an advanced practice registered nurse or a registered nurse; (3) a social worker; and ~~may include~~ (4) a member of the clergy; (5) a counselor; and (6) a consulting pharmacist.

§16-60-3. Development of educational materials and database.

(a) The State Advisory Coalition on Palliative Care, working in conjunction with the Bureau for Public Health, shall develop a work group to create the content of educational materials regarding palliative care for distribution to providers and to the general public. These materials should at a minimum provide an overview of the different models of palliative care services offered throughout the continuum of care and a description of the interdisciplinary team.

~~(b) The Office of Health Facility License and Certification shall update and maintain its current webpage to reflect an option to search for palliative care provider type.”~~

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 533**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Boggs, Cooper, Foster, Householder, Kump, Miller, Queen, Steele, Westfall and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 534**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Boggs, Cooper, Foster, Householder, Kump, Miller, Steele, Westfall and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 748) passed.

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

S. B. 748 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-60-1, §16-60-2, and §16-60-3, all relating to increasing awareness of palliative care services; defining terms; requiring the State Advisory Coalition on Palliative Care, in conjunction with the Bureau for Public Health to develop education materials.”

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

Com. Sub. for S. B. 749, Requiring Fatality and Mortality Review Team share data with CDC; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 750, Establishing extended learning opportunities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-7e. Alternative educational opportunities for elective course credit.

(a) The Legislature finds and declares that:

(1) Programs outside of the traditional classroom have educational value;

(2) Many entities, including, but not limited to, nonprofit organizations, afterschool programs, businesses, and trade associations, may have an interest in offering programs outside of the traditional classroom that are attractive to students and contain educational value;

(3) Learning opportunities that are designed to address the interests and aptitudes of the individual student will enable students to discover, develop, and apply their individual talents to realize their full potential;

(4) Policies that allow for educational opportunities outside of the traditional classroom exist in other states;

(5) Providing credit for alternative educational opportunities will enrich the learning environment of students and develop well-rounded individuals ready for a life of learning, productive work, and community involvement.

(b) The State Board of Education shall promulgate a rule requiring county boards of education to develop an alternative educational opportunities policy that provides students involved in educational opportunities outside of the traditional classroom to receive elective course credit.

(c) The county boards of education shall adopt an alternative educational opportunities policy that recognizes learning opportunities outside of the traditional classroom and grants elective course credit. The policy shall:

(1) Provide for an application process for entities to submit proposals for alternative educational programs that will qualify for elective course credit;

(2) Define which entities are eligible to submit applications for alternative educational programs: *Provided*, That entities which are deemed eligible shall be broadly defined and shall include, but not be limited to:

(A) Nonprofit organizations;

(B) Businesses with established locations in the state;

(C) Trade associations;

(D) Parents of students involved in programs that may otherwise qualify as an alternative educational program;

(E) Teachers involved in programs outside of the traditional classroom; and

(F) School personnel involved in programs outside of the traditional classroom;

(3) Provide for the criteria to be used to evaluate the alternative educational program;

(4) Describe any communication and collaboration needed between the local school, county board, or State Board of Education to implement alternative educational opportunities;

(5) Place requirements on the entity, such as background checks for key personnel, and minimum accountability standards; and

(6) Provide a process for student credit transfer.

(d) The county boards of education shall have the authority to approve or deny an application for an alternative educational program: *Provided*, That if the application is denied, the county board shall provide a detailed explanation of the reasons for its denial and suggest ways to improve the application that will assist its more favorable view by the county board.

(e) The county boards of education shall have the authority to audit approved alternative educational programs at any time. If the audit results in findings that an approved program is not meeting the provisions of this section or the policy outlined in subsection (c) of this section, then the county board may disqualify the program immediately.

(f) The Department of Education shall prepare a report of data analysis and an overview of the alternative learning opportunities to the Legislative Oversight Commission on Education Accountability after 3 years of implementation.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 535**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Boggs, Cooper, Foster, Householder, Kump, Porterfield, Steele, Westfall and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 536**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Bartlett, Boggs, Cooper, Cowles, Foster, Hardy, Householder, Kump, Porterfield, Steele, Westfall and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 750) passed.

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

S. B. 750 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7e, relating to establishing alternative educational opportunities for elective course credit; setting forth legislative findings; requiring the state board to promulgate a rule requiring county boards to develop alternative educational opportunities policies; requiring county boards to adopt alternative educational opportunities polices and setting forth parameters therefore; authorizing county boards to approve or deny alternative educational programs and to audit the same; and requiring the Department of Education to report to the Legislative Oversight Commission on Education Accountability after three years of implementation.”

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

Com. Sub. for S. B. 760, Allowing state college or university apply to HEPC for designation as administratively exempt school; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Angelucci, was reported by the Clerk.

Whereupon,

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

The bill was then ordered to third reading.

S. B. 767, Relating to licensure of hospitals; on second reading, coming up in regular order, was read a second time.

Delegate Robinson moved to amend the bill on page two, section six-a, by striking out the word “[repealed]” and inserting in lieu thereof the current law as amended below:

“§16-5B-6a. Consumer majorities on hospital boards of directors.

(a) The Legislature declares that a crisis in health care costs exists, that one important approach to deal with this crisis is to have widespread citizen participation in hospital decision making and that many hospitals in West Virginia exclude from their boards important categories of consumers, including small businesses, organized labor, elderly persons and lower-income consumers. The Legislature further declares that nonprofit hospitals receive such major revenue from public sources and are so crucial in health planning and development that it is necessary to require consumer representatives on their boards of directors. Therefore, the Legislature determines that nonprofit hospitals and hospitals owned by local governments should have boards of directors representative of the communities they serve.

(b) As used in this section, ‘applicable hospitals’ means all nonprofit hospitals and all hospitals owned by a county, city or other political subdivision of the State of West Virginia.

(c) At least ~~forty~~ thirty percent of the boards of directors of applicable hospitals shall, on or before July 1, 1984, be composed of an equal portion of consumer representatives from the following categories: Small businesses, organized labor, elderly persons, individuals recommended by the West Virginia Nurses Association ~~and~~ or persons whose income is less than the national median income. Special consideration shall be made to select women, racial minorities and handicapped persons.

(d) The provisions of this section may be enforced by the director of health, or by any citizen of the county wherein any

offending hospital is located, by the filing of an action at law in the circuit court of such county.”

Delegates Ellington, Atkinson, Hartman, Staggers, Criss and Capito requested to be excused from voting on S. B. 767 under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Members to vote.

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

The yeas and nays having been ordered, they were taken (**Roll No. 537**), and there were—yeas 33, nays 59, absent and not voting 8, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hicks, Hornbuckle, J. Jeffries, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Swartzmiller, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Bartlett, Boggs, Cooper, Householder, Kump, Steele, Storch and Westfall.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 770, Revising requirements for post-doctoral training; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 785, Establishing uniform electioneering prohibition area; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“Be it enacted by the Legislature of West Virginia:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-2a. Early voting areas; prohibition against display of campaign material.

(a) The county commission shall designate the courthouse or annex to the courthouse as the primary location for early in-person voting and, in addition, the commission may designate other locations as provided in subsection (b) of this section.

(b) The county commission may, with the approval of the county clerk or other official charged with the administration of elections, designate community voting locations for early in-person voting, other than the county courthouse or courthouse annex, by a majority of the members of the county commission voting to adopt the same at a public meeting called for that purpose.

(1) The county commission shall publish a notice of its intent to designate a community voting location at least 30 days prior to the designation. Notice shall be by publication as a Class II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code. The publication area is the county in which the community voting location or locations are designated;

(2) Community voting locations shall comply with requirements of this article for early in-person voting, criteria prescribed by the Secretary of State, and the following criteria:

(A) The location can be scheduled for use during the early voting period;

(B) The location has the physical facilities necessary to accommodate early voting requirements;

(C) The location has adequate space for voting equipment, poll workers, and voters; and

(D) The location has adequate security, public accessibility, and parking.

(3) The county executive committees of the two major political parties may nominate sites to be used as community voting locations during the early voting period;

(4) Upon the designation of a community voting location, the county clerk shall, not less than 30 days prior to an election, give notice of the ~~dates, times, and place of community voting locations~~ community voting location address and the dates and times when the location will be open for early voting by publication as a Class II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code;

(5) Voting shall be conducted at each designated community voting ~~site~~ location for a period of not less than five consecutive days during the early in-person voting period authorized by §3-3-3 of this code, but need not be conducted at each location for the entire period of early in-person voting;

(6) The county commission, with the approval of the county clerk, may authorize community voting locations on a rotating basis, wherein a community voting location may be ~~utilized~~ used for less than the full period of early in-person voting. ~~and~~

(7) If more than one community voting location is designated, each location shall be ~~utilized~~ used for an equal number of voting days and permit voting for the same number of hours per day; and

(8) Once a community voting location is designated it may continue to be used in subsequent elections without complying with the public notice requirements of subdivision (1) of this subsection if the county commission finds, and the county clerk agrees, at least 50 days, but not more than 80 days prior to the election, that the location continues to qualify under this section.

(c) The Secretary of State shall propose legislative and emergency rules in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary to implement the provisions of this section. The rules shall include establishment of criteria to assure neutrality and security in the selection of community voting locations.

(d) Throughout the period of early in-person voting, the official designated to supervise and conduct ~~absentee~~ early in-person voting shall make the following provisions for voting:

(1) The official shall provide a sufficient number of voting booths or devices appropriate to the voting system at which voters may prepare their ballots. The booths or devices are to be in an area separate from, but within clear view of, the public entrance area of the official's office or other area designated by the county commission for ~~absentee~~ early in-person voting and are to be arranged to ensure the voter complete privacy in casting the ballot.

(2) The official shall make the voting area secure from interference with the voter and shall ensure that voted and unvoted ballots are at all times secure from tampering. No person, other than a person lawfully assisting the voter according to the provisions of this chapter, may be permitted to come within five feet of the voting booth while the voter is voting. No person, other than the officials or employees of the official designated to supervise and conduct ~~absentee~~ early in-person voting or members of the board of ballot commissioners assigned to conduct ~~absentee~~ early in-person voting, may enter the area or room set aside for voting.

(3) (A) The official designated to supervise and conduct ~~absentee~~ early in-person voting shall request the county commission designate another area within the county courthouse, any annex of the courthouse or any other designated as early in-person community voting locations within the county, as a portion of the official's office, for the purpose of ~~absentee~~ early in-person voting in the following circumstances:

~~(A)~~ (i) If the voting area is not accessible to voters with physical disabilities;

~~(B)~~ (ii) If the voting area is not within clear view of the public entrance of the office of the official designated to supervise and conduct ~~absentee~~ early in-person voting; or

~~(C)~~ (iii) If there is no suitable area for ~~absentee~~ early in-person voting within the office.

(B) Any designated area is subject to the same requirements as the ~~regular absentee voting area~~ primary location for early in-person voting.

(4) The official designated to supervise and conduct ~~absentee~~ early in-person voting shall have at least two representatives to assist with ~~absentee~~ early in-person voting: *Provided*, That the two representatives may not be registered with the same political party affiliation or be two persons registered with no political party affiliation. The representatives may be full-time employees, temporary employees hired for the period of ~~absentee~~ early in-person voting in person, or volunteers.

(5) No person may do any electioneering nor may any person display or distribute in any manner, or authorize the display or distribution of, any literature, posters, or material of any kind which tends to influence the voting for or against any candidate or any public question on the property of the county courthouse, any annex facilities, or within 100 feet of the outside entrance of any other designated early voting locations within the county during the entire period of regular early in-person ~~absentee~~ voting. The official designated to supervise and conduct ~~absentee~~ early in-person voting is authorized to remove the material and to direct the sheriff of the county to enforce the prohibition.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 538**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Cooper, Graves, Householder, Kump, Linville, Steele, Storch and Westfall.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Cooper, Graves, Householder, Kump, Linville, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 785) passed.

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

On this question, the yeas and nays were taken (**Roll No. 540**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Cooper, Householder, Kump, Linville, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 785) takes effect from its passage.

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

Com. Sub. for S. B. 793, Relating to B&O taxes imposed on certain coal-fired electric generating units; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 830, Eliminating special merit-based employment system for health care professionals; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 838, Directing state police establish referral program for substance abuse treatment; on second reading, coming up in regular order, was read a second time.

An amendment recommended, by the Committee on the Judiciary, was reported by the Clerk, and adopted, amending the bill on page one, section fifty-five, line one, immediately following the word “program”, by inserting the phrase “and may, in collaboration with the Office of Drug Control Policy of the Department of Health and Human Resources and existing state government programs”.

On page one, section fifty-five, line four, immediately following the word “section”, by striking out the colon, and inserting the following “and who is not under arrest or the subject of a search warrant:”.

And,

On page two, section fifty-five, line twenty-four, immediately following the word “from”, by striking out the words “criminal and”.

The bill was then ordered to third reading.

S. B. 839, Creating State Advisory Council on Postsecondary Attainment Goals; on second reading, coming up in regular order, was read a second time.

An amendment recommended by the Committee on Education, was reported by the Clerk, and adopted, amending the bill on page one, section eleven, lines one through six, by striking out paragraph (a) in its entirety and inserting in lieu thereof the following:

“(a) There is hereby created the State Advisory Council on Postsecondary Attainment Goals. The council’s purpose is to ensure that students are provided opportunities to learn and earn the most relevant industry-demanded knowledge, skills and credentials to prepare students for the challenges of college, careers, and life, while helping the state and its employers attain economic growth through collaboration with K-12 education leaders, employers and industry leaders, state agency leaders, the Higher Education Policy Commission and the Council for Community and Technical College Education to identify high-value and in-demand postsecondary credentials, and to develop a plan to assist the state in achieving its postsecondary attainment goal of having 60 percent of West Virginians between the ages of 25 and 64 hold a degree, certificate, or other postsecondary workforce credential of value in the workplace by 2030.”

On page one, section eleven, line seventeen, after the word “House”, by inserting the following subsections:

“(7) Representatives from at least two employers, industry associations, or chambers of commerce, appointed jointly by the President of the Senate and the Speaker of the House;

(8) Representatives from at least two regional economic development and workforce investment boards, appointed jointly by the President of the Senate and the Speaker of the House;”.

Renumbering the remaining subsections.

On page two, section eleven, line forty-three after the word “goal” and the period, by inserting the following new section:

“(e) The council shall provide leadership, strategic direction and evaluation of the state’s investments in, and progress toward, implementing high-quality career and technical education programs that are accessible to all students and improves the career

readiness of the state's workforce by conducting an annual review of career and technical education offerings in K-12 and the state's community college and technical education system to determine the alignment of existing offerings with employer demand, postsecondary degree or certificate programs, and professional industry certifications. The review shall identify career and technical education offerings that are linked to occupations that are in high-demand by employers, require high-level skills, and provide middle- and high-level wages. The review shall include analyses of:

(1) Participating students and their outcomes, including the following:

(A) Academic achievement;

(B) Attainment of industry certifications;

(C). Program completion;

(D) Applied learning experiences;

(E) College credit attainment through the career and technical education program, including dual enrollment or articulation;

(F) Postsecondary enrollment and credential attainment, including enrollment in 4-year degree programs for state College System students; and

(G). Employment outcomes, including wages;

(2) Demographics of participating students by pathway and credential attainment;

(3) Educational settings of the courses;

(4) Alignment with high-growth, high-demand and high-wage employment opportunities;

(5) Current and projected economic, labor and wage data on the needs of the state, regional and global economy and workforce.

(6) Alignment with certificate or degree programs offered at the postsecondary level or professional industry certifications;

(7) Employment outcomes, including wages, by career and technical education program offerings;

(8) Apprenticeship and pre-apprenticeship offerings;

(9) Qualifications and specialized knowledge and expertise of instructors and the opportunities for these educators to upskill in the latest in-demand skills of employers; and,

(10) Extent to which federal, state and local funding is used to foster career and technical education program success and program efficiency.”

And,

Relettering the remaining sections.

The bill was then ordered to third reading.

S. B. 842, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page one, following the article heading, by striking the remainder of the bill and inserting in lieu thereof the following:

“§18-3-13. Behavior Interventionist Pilot Program.

(a) The Legislature finds that:

(1) Behavior problems of special education students can be better addressed by personnel who specialize in addressing student behavior issues;

(2) With the advent of the opioid crisis in recent years in West Virginia, behavior problems in the state's elementary and secondary education system have increased significantly;

(3) Behavior problems impact not just the student who is misbehaving, but also other students at the school;

(4) The state should explore various ways to address this issue;

(5) One such method of successfully addressing behavioral problems could be through the use of behavior interventionists; and

(6) A behavior interventionist who is trained to address student behavior issues at a school could free classroom teachers from having to address behavior issues and allow them to focus exclusively on teaching students which could result in academic achievement increases for other students in the classroom.

(b) The state superintendent shall immediately establish a Behavior Interventionist Pilot Program to be implemented in not less than two nor more than ten county school districts for the duration of three years. In selecting the county school districts, the state superintendent shall select districts meeting the following criteria:

(1) The districts shall have among the highest number in the state of students with an individual education program;

(2) The districts designated by the state superintendent for the pilot program shall have schools that have a significant number of students enrolled with behavior issues; and

(3) The districts shall have the resources to hire and train personnel who specialize in addressing students with behavior issues.

(c) The county school districts designated for the pilot programs pursuant to this section may immediately create a new employment position, entitled "behavior interventionist", which is a school-based position that specializes in addressing behavior issues at a school. Once the counties are chosen, the county

superintendent shall convene an advisory committee consisting of principals, teachers, classroom aides, and the education organizations to advise the county superintendent and county board on qualifications and hiring. Behavior interventionists shall be designated by the county board as either a professional person or a service person. If the behavior interventionist is designated as a service person, he or she shall be assigned a pay grade F for the purpose of the salary schedule set forth in §18A-4-8a of this code. The county school districts designated for the pilot programs shall establish the qualifications for personnel employed in the behavior interventionist position and shall establish the initial and continuing training requirements for the personnel employed in the position.

(d) Annually, for the duration of the pilot programs and once after the conclusion of the pilot programs, the county superintendents of the county school districts designated for the pilot programs shall report to the Legislative Oversight Commission on Education Accountability on:

(1) Progress toward and methods of implementation of the pilot programs, including the required qualifications and training for personnel employed in the behavior interventionist position;

(2) Indicators of the success of the pilot programs, which may include reductions in disciplinary actions and increases in student achievement at the schools in which the behavior interventionists are assigned;

(3) Their recommendation on whether the pilot programs should continue beyond the current duration of the pilot programs; and

(4) Their recommendation on whether the pilot programs should be replicated in other school districts that have a high percentage of students with an individual education program, that have schools with significant student behavior problems, or both, and if so, how the pilot programs could best be replicated based on the experience and knowledge gained from the pilot programs established pursuant to this section.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 541**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, J. Jeffries, Kump, Linville, Steele and Westfall.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 542**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Butler.

Absent and Not Voting: Cooper, J. Jeffries, Kump, Linville, Steele and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 842) passed.

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

S. B. 842 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, all relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in limited number of county school districts for the duration of three years; making findings; setting forth criteria to be used in the selection of the county school districts; allowing the two county school districts to immediately create a new behavior

interventionist position; requiring the county superintendent to convene a committee consisting of certain school personnel and the education organizations to establish qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; requiring certain pay grade in case of service person position; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report and final report with certain information to the Legislative Oversight Commission on Education Accountability.”

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

On this question, the yeas and nays were taken (**Roll No. 543**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, J. Jeffries, Kump, Linville, Sponaugle, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 842) takes effect from its passage.

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

S. B. 846, Requiring hospital publish notification prior to facility closure regarding patient medical records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 848, Clarifying persons charged with DUI may not participate in Military Service Members Court; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 851, Requiring Governor’s Committee on Crime, Delinquency, and Correction propose rule in coordination with law

enforcement and certain medical boards; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk, and adopted, amending the bill on page one, section seven, in the section header, immediately following the word “treatment” by inserting the phrase “abstinence-based recovery”.

On page one, section seven, line four, immediately following the word “treatment”, by inserting the phrase “abstinence-based recovery”.

On page one, section seven, line eight, immediately following the word “treatment”, by inserting the phrase “abstinence-based recovery”.

On page two, section seven, line sixteen, immediately following the word “treatment”, by inserting the phrase “abstinence-based recovery”.

And,

On page two, section seven, line twenty, immediately following the word “from”, by deleting the words “criminal or”.

On motion of Delegate Kessinger, the bill was amended on page one, section seven, line two, immediately following the word “enforcement”, by inserting the following words “a representative of an abstinence-based recovery program”.

The bill was then ordered to third reading.

First Reading

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

S. B. 51, Specifying forms of grandparent visitation,

Com. Sub. for S. B. 120, Establishing priorities for expenditures for plugging abandoned gas or oil wells,

S. B. 180, Relating to Second Chance Driver's License Program,

Com. Sub. for S. B. 193, Setting forth timeframes for continuing purchases of commodities and services over \$1 million,

Com. Sub. for S. B. 195, Updating powers of personal representatives of deceased person's estate,

Com. Sub. for S. B. 213, Relating to administration of trusts,

Com. Sub. for S. B. 253, Providing for fair pay and maximized employment of disabled persons,

S. B. 278, Providing various methods to deal with defendant who becomes incompetent during trial,

Com. Sub. for S. B. 291, Requiring PEIA and health insurance providers provide mental health parity,

S. B. 322, Relating to prequalifications for state contract vendors,

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims ,

Com. Sub. for S. B. 551, Relating to Water and Wastewater Investment and Infrastructure Improvement Act,

Com. Sub. for S. B. 579, Changing and adding fees to wireless enhanced 911 fee,

Com. Sub. for S. B. 589, Creating Critical Needs/Failing Systems Sub Account,

Com. Sub. for S. B. 597, Relating to judicial branch members' salaries and pensions,

Com. Sub. for S. B. 615, Declaring certain claims against state as moral obligations of state,

Com. Sub. for S. B. 648, Providing dental coverage for adult Medicaid recipients,

Com. Sub. for S. B. 660, Regulating electric bicycles,

S. B. 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity,

Com. Sub. for S. B. 670, Amending service of process on nonresident persons or corporate entities,

Com. Sub. for S. B. 690, Permitting street-legal special purpose vehicles on highways,

Com. Sub. for S. B. 710, Establishing pilot program to evaluate telemedicine health services,

Com. Sub. for S. B. 711, Relating to juvenile jurisdiction of circuit courts,

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization,

Com. Sub. for S. B. 717, Relating generally to adult protective services,

Com. Sub. for S. B. 719, Imposing health care-related provider tax on certain health care organizations,

Com. Sub. for S. B. 722, Relating to special license plates for public and private nonprofit transit providers,

Com. Sub. for S. B. 738, Creating Flatwater Trail Commission,

S. B. 740, Clarifying authorized users of Ron Yost Personal Assistance Services Fund,

S. B. 765, Modifying "Habitual Offender" statute,

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care,

Com. Sub. for S. B. 797, Authorizing governing boards of public and private hospitals employ hospital police officers,

S. B. 843, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund,

S. B. 844, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund,

Com. Sub. for S. B. 845, Supplemental appropriation from Treasury to DHHR, Division of Human Services,

S. B. 852, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund,

And,

S. B. 853, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

On motion for leave, a resolution was introduced (Originating in the Committee on Technology and Infrastructure and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegate Linville:

H. C. R. 139 - "Requesting the Division of Highways to rename the portion of State Route 10 from milepost 9.10 to milepost 13.60 in Logan County, the 'U. S. Army TSGT Denver E. Short Memorial Road'."

Whereas, In 2018, the portion of State Route 10 from milepost 9.10 to milepost 13.60 in Logan County was named the “U. S. Army SGT Denver E. Short Memorial Road” as a result of the adoption of Senate Concurrent Resolution 1 by the Legislature during the 2018 regular session; and

Whereas, Is has since come to the attention of the Legislature that the proper military rank of Denver E. Short was Technical Sergeant, rather than Sergeant; and

Whereas, It is fitting and proper to rename that portion of State Route 10 to recite the proper military rank of Denver E. Short in order to properly honor him; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to rename the portion of State Route 10 from milepost 9.10 to milepost 13.60 in Logan County, the “U. S. Army TSGT Denver E. Short Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the “U. S. Army TSGT Denver E. Short Memorial Road”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

The Speaker referred the resolution to the Committee on Rules.

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 26, Requesting the Division of Highways name a portion of Cannelton Road “In Memory of Fallen Corrections Officers”,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 26 - “Requesting the Division of Highways name a portion of road beginning on Bell Creek Road from its intersection with WV16, (38.254103, -81.222666), continuing to its intersection with CR2, known as Cannelton Hollow Road, and continuing on CR2 to the Mount Olive Correctional Complex (38.238219, -81.237136), in Fayette County, as being ‘In Memory of Fallen Corrections Officers’,”

H. C. R. 31, U. S. Army Air Corp PFC James W. Brown Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 31 - “Requesting the Division of Highways name bridge number 52-15-0.84 (52A145), Lat/Long:39.57192,-80.67941, locally known as the North Fork Bridge, carrying CR15 over the North Fork of Fishing Creek in Wetzel County, the ‘U. S. Army Air Corps PFC James W. Brown Memorial Bridge’,”

H. C. R. 56, U. S. Marine Corps Lance Corporal Eddie Dean Starcher Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 56 - “Requesting the Division of Highways name bridge number: 44-11-9.29 (44A181), (38.84367, -81.22103) locally known as Rocksdale Bridge, carrying CR 11 over West Fork of the Little Kanawha River in Roane County, the ‘U. S. M. C. Lance Cpl Eddie Dean Starcher Memorial Bridge’,”

H. C. R. 69, U. S. Air Force Senior Airman Luke Christopher Wamsley Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 69 - “Requesting the Division of Highways name bridge number: 49-016/00-002.95 (49A038),

(38.93283, -80.15943) locally known as Sand Run Slab NO. 2, carrying CR16 over Sand Run in Upshur County, the ‘U. S. A. F. Senior Airman Luke Christopher Wamsley Memorial Bridge’,”

H. C. R. 74, U. S. Army PFC Roger Lee Carpenter Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 74 - “Requesting the Division of Highways name bridge number 01-056/00-000.01(01A063), (38.97937, -79.95045) locally known as Junior W-Beam, carrying CR 56 over Tygart Valley River in Barbour County, the ‘U. S. Army PFC Roger Lee Carpenter Memorial Bridge’,”

H. C. R. 98, Delegate Emily Warden Yeager Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 98 - “Requesting the Division of Highways name bridge number 24-052/00-03189 (24A268), locally known as Eckman Overhead, carrying U.S. 52 over CO52/9, NSRR, Elkhorn Creek in McDowell County, the ‘Delegate Emily Warden Yeager Memorial Bridge’,”

H. C. R. 101, Claude Markle Hill,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 101 - “Requesting the Division of Highways name a portion of West Virginia Route 4 in Clay County, from its intersection with West Virginia Route 16 continuing three miles southbound (mp 18.98- mp 21.98), the ‘Claude Markle Hill’,”

H. C. R. 108, U. S. Navy PO3 Heath “Scrappy” Shilling Memorial Road,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 108 - “Requesting the Division of Highways name that portion of WV Route 2, beginning at milepost 19.50 (39.922277, -80.748568) and ending at milepost 19.53 (39.924165, -80.749633) in Marshall County, the ‘U. S. Navy PO3 Heath ‘Scrappy’ Shilling Memorial Road’,”

H. C. R. 109, U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 109 - “Requesting the Division of Highways name bridge number: 20-060/00-013.32 (20A342), (38.36599, -81.68053) locally known as CARBIDE OVERPASS, carrying U.S. 60 over CSX RR CARBIDE ENTRANCE in Kanawha County, the ‘U. S. Army Air Corps Airman Thomas Harry Honaker, Jr. Memorial Bridge’,”

And,

H. C. R. 111, U. S. Air Force Major Mary Lafferty Coll, D.O. Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 111 - “Requesting the Division of Highways name bridge number 10-077/00-061.20 (10A237), (37.98696, -81.30559), locally known as Turnpike Bridge, carrying I-77, I-64 over Milburn Creek in Fayette County, the ‘U. S. A. F. MAJ Mary Lafferty Coll Memorial Bridge’,”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 26, Com. Sub. for H. C. R. 31, Com. Sub. for H. C. R. 56, Com. Sub. for H. C. R. 69, Com. Sub. for H. C. R. 74, Com. Sub. for H. C. R. 98, Com. Sub. for H. C. R. 101, Com. Sub. for H. C. R. 108, Com. Sub. for H. C. R. 109 and Com. Sub. for H. C. R. 111) were referred to the Committee on Rules.

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 7, U. S. Navy MM2 Carl E. Keeney, U. S. Navy SN1 Frank Keeney and U. S. Army PFC Carl M. Nicholas Memorial Bridge,

H. C. R. 89, U. S. Army SGT James Shellace Armentrout Memorial Bridge,

H. C. R. 110, Speaker Clyde M. See, Jr. Exit,

S. C. R. 3, US Army MSG Richard A. “Dick” Smoot Memorial Bridge,

Com. Sub. for S. C. R. 8, US Army 1LT Harold H. Frazier Memorial Bridge,

And,

S. C. R. 12, US Army PFC Gary Alcott Birkhimer Memorial Bridge,

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

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 7, H. C. R. 89, H. C. R. 110, S. C. R. 3, Com.

Sub for S. C. R. 8 and S. C. R. 12) were referred to the Committee on Rules.

Miscellaneous Business

Pursuant to House Rule 132, consent was requested and obtained to print the following remarks in the Appendix to the Journal:

- Delegate N. Brown during Introduction of Guests

- Delegates Evans and Walker regarding the amendment offered by Delegate Fleischauer to Com. Sub. for S. B. 175

At 8:44 p.m., the House of Delegates adjourned until 9:00 a.m., Thursday, March 5, 2020.

Thursday, March 5, 2020

FIFTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 4, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for S. B. 130, on Third Reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for S. B. 253 and Com. Sub. for S. B. 710, on Second Reading, Special Calendar, had been transferred to the House Calendar; and S. B. 610, on Second Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 752, Relating generally to medical cannabis,

And reports the same back without recommendation.

Delegate Byrd asked unanimous consent that the bill (Com. Sub. for S. B. 752) be taken up for immediate consideration, read

a first time and ordered to second reading, which request was not granted, objection being heard.

Delegate Pushkin then so moved.

On this question, the yeas and nays were taken (**Roll No. 544**), and there were—yeas 55, nays 43, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Anderson, Atkinson, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Cooper, Cowles, Criss, Espinosa, Fast, Foster, Graves, Hamrick, Hanna, Hardy, Hott, Householder, Howell, D. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Linville, Little, Mandt, C. Martin, P. Martin, Pack, Phillips, Porterfield, Rohrbach, Rowan, Summers, Sypolt, Toney, Waxman, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Hicks and Skaff.

So, a majority of the members present and voting having in the affirmative, the motion was adopted.

The bill was then read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

S. C. R. 4, Urging Congress call convention to propose amendment on congressional term limits,

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

On motion for leave, a resolution was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it be adopted), which was read by its title, as follows:

By Delegates Hardy, Wilson, Steele, Cooper, Sypolt, Kump, Phillips and Bibby:

H. C. R. 141 – “Urging the President and Congress of the United States of America take no action to employ military forces of the United States in active duty combat unless the United States Congress has passed an official declaration of war or has taken an official action or renewed action to authorize the use of military force and/or to call forth the state militias for a term no longer than two years, to explicitly execute a coherent and effectively resourced national security strategy.”

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

Whereas, Article I, Section 8 of the Constitution of the United States vests in the United States Congress the exclusive power to declare war, to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years, and to call forth the militia to execute the laws of the union, suppress insurrections and repel invasions; and

Whereas, In spite of the clear language of the United States Constitution, vesting the power over war exclusively in the United States Congress, the United States Executive Branch has unconstitutionally assumed that power while the United States Congress has abdicated its constitutional duty; and

Whereas, Although the United States Congress has not declared war in over 70 years, the nation has since gone to war repeatedly at the direction of the Executive Branch and/or acted under perpetual authorizations to use military force passed by Congress empowering the Executive Branch to engage in unending war – clearly not what the Founding Fathers intended in the Constitution; and

Whereas, When such unconstitutional actions are taken by the federal government, it is the proper role of the states themselves to take action to remedy such situations, as outlined in the Kentucky and Virginia Resolutions of 1798; and

Whereas, A founder of this country, George Washington, once wrote: “The Constitution vests the power of declaring war in Congress; therefore, no offensive expedition of importance can be undertaken until after they shall have deliberated upon the subject and authorized such a measure”; and

Whereas, The Father of the Constitution, James Madison, once wrote: “The Constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war to the Legislature”; and

Whereas, The author of the Declaration of Independence, Thomas Jefferson, once wrote: “We have already given in example one effectual check to the dog of war by transferring the power of letting him loose from the Executive to the Legislative body...” and “Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided”; and

Whereas, Another Constitutional framer, Alexander Hamilton, once wrote: ““The Congress shall have the power to declare war”; the plain meaning of which is, that it is the peculiar and exclusive duty of Congress, when the nation is at peace, to change that state into a state of war...”; therefore, be it

Resolved by the Legislature of West Virginia:

That the President and Congress of the United States of America are hereby urged to take no action to employ military forces of the United States in active duty combat unless and until the United States Congress has passed an official declaration of war or has taken an official action or renewed action to authorize the use of military force and/or to call forth the state militias for a term no longer than two years, to explicitly execute a coherent and effectively resourced national security strategy; save in instances when our forces must respond to attack; and, be it

Further resolved, That the State of West Virginia seeks to end any periods of endless or perpetual armed conflict with no clear conditions of conclusion that risks the lives of our military members; and be it

Further resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the President of the United States, to the President of the United States Senate and to the Speaker of the United States House of Representatives, and to each member of West Virginia's congressional delegation, with the request that this resolution be officially entered into the Congressional Record.

Messages from the Executive

The following Proclamation of His Excellency, the Governor, was laid before the House of Delegates and read by the Clerk:

STATE OF WEST VIRGINIA EXECUTIVE DEPARTMENT

Charleston

A P R O C L A M A T I O N

By the Governor

WHEREAS, The Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January two thousand twenty; and

WHEREAS, Pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand twenty regular session of the Legislature is scheduled to conclude on the seventh day of March, two thousand twenty; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, The Budget Bill has not been finally acted upon by the Legislature as of this fourth day of March, two thousand twenty.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article, VI, Section 51 of the Constitution of West Virginia, extending the two thousand twenty regular session of the Legislature for an additional period not to exceed one day, through and including the eighth day of March, two thousand twenty; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this fourth day of March, in the year of our Lord, Two Thousand Twenty, and in the One Hundred Fifty-Seventh year of the State.

James Justice,
Governor.

By the Governor

Mac Warner
Secretary of State

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 2, 2020, he approved **Com. Sub. for. H. B. 4026**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4022, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section five, lines twenty-five through twenty-seven, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

“(e) The commission sets the chancellor’s salary. The salary may not exceed by more than 20 percent the average annual salary of the chief executive officers of state systems of higher education in the states that comprise the membership of the Southern Regional Education Board. Pursuant to §6B-2-5(l) of this code, the chancellor may receive only one form of salary if such person serves as the chancellor for both the higher education policy commission and the council for community and technical colleges.”

And,

By amending the title of the bill to read as follows:

H. B. 4022 – “A Bill to amend and reenact §18B-1B-5 of the Code of West Virginia, 1931, as amended, clarifying the

qualifications of the Chancellor of the Higher Education Policy Commission; modifying provisions pertaining to salary of Chancellor of the Higher Education Policy Commission; retitling the Vice Chancellor for Health Sciences; and abolishing the statutory position of Vice Chancellor for State Colleges.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 545**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Angelucci.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4022) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4099, Eliminating the permit for shampoo assistants.

A message from the Senate, by

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

H. B. 4396, Relating to reporting suspected governmental fraud.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4414, Relating to the selection of language and development milestones for the deaf and hard-of-hearing children.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-20. Definitions and purpose.

(a) For the purpose of this code:

‘English’ means and includes spoken English, written English, or English with the use of visual supplements;

‘Language developmental milestones’ means milestones of development aligned with the existing state instrument used to meet the requirements of federal law for the assessment of children from birth to five years of age, inclusive; and

‘Language’ includes American Sign Language (ASL) and English.

(b) For the purposes of developing and using language for a child who is deaf or hard of hearing, the following modes of communication may be used as a means for acquiring language: American Sign Language (ASL) services, spoken language services, dual language services, cued speech and tactile, or a combination thereof.

(c) This section shall apply only to children from birth to five years of age, inclusive.

(d) Implementation of this code is subject to an appropriation by the legislature.

(e) Federal regulations for children age birth through two do not require reporting of measures specific to language and literacy.

However, this data is reported for children age three to five and the West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall make this report available to the advisory committee, and available to others upon request.

(f) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education through their agencies that serve children ages birth to five and their families shall jointly select language developmental milestones from existing standardized norms, to develop a family resource for use by families, providers, early interventionists, speech pathologists, educators, and other service providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive language acquisition and progress toward English literacy development. This family resource shall include:

(1) Language that provides comprehensive and neutral, unbiased information regarding different modes used to learn and access language (e.g., English, American Sign Language (ASL), or both) and services and programs designed to meet the needs of children who are deaf or hard-of-hearing;

(2) Language developmental milestones selected pursuant to the process specified in this section;

(3) Language appropriate for use, in both content and administration, with deaf and hard-of-hearing children from birth to five years of age, inclusive, who use both or one of the languages of American Sign Language (ASL) or English;

(4) Developmental milestones in terms of typical development of all children, by age range;

(5) Language written for clarity and ease of use by families;

(6) Language that is aligned with the West Virginia Department of Health and Human Resources' and the West Virginia Department of Education's existing infant, toddler, and preschool guidelines, the existing instrument used to assess the

development of children with disabilities pursuant to federal law, and state standards in language and literacy;

(7) Clarification that the parent(s) have the right to select which language (American Sign Language (ASL), English, or both) for their child's language(s) acquisition and developmental milestones;

(8) Clarification that the family resource is not a formal assessment of language and literacy development, and that a family's observations of their children may differ from formal assessment data presented at an individualized family service plan (IFSP) or individual education program (IEP) meeting; and

(9) Clarification that the family resource may be used during an individualized family service plan (IFSP) or individual education program (IEP) meeting for purposes of sharing the family's observations about their child's development.

(g) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall also prepare a list of valid and reliable existing tools or assessments for providers, early interventionists, speech pathologists, educators, and other service providers that can be used periodically to determine the receptive and expressive language and literacy development of deaf and hard-of-hearing children. These educator tools and assessments:

(1) Shall be in a format that shows stages of language development;

(2) Shall be used by providers, early interventionists, speech pathologists, educators, and other service providers to determine the progressing development of deaf and hard-of-hearing children's receptive and expressive language acquisition and developmental stages toward English literacy;

(3) Shall be selected from existing instruments or assessments used to assess the development of all deaf and hard-of-hearing children from birth to five years of age, inclusive;

(4) Shall be appropriate, in both content and administration, for use with children who are deaf and hard-of-hearing;

(5) May be used, in addition to the assessment required by federal law, by the individualized family service plan (IFSP) team and individual education program (IEP) team, as applicable, to track deaf and hard-of-hearing children's progress, and to establish or modify individualized family service plans (IFSPs) and individual education programs (IEPs); and

(6) May reflect the recommendations of the advisory committee established pursuant to §16-1-20(e) of this code.

(h) To promote the intent of this code, the West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall:

(1) Disseminate the family resource developed to families of deaf and hard-of-hearing children, as well as providers, early interventionists, speech pathologists, educators, and related service personnel; and

(2) Disseminate the educator tools and assessments selected to local educational agencies for use in the development and modification of individualized family service plans (IFSPs) and individual education programs (IEPs);

(3) Provide informational materials on the use of the resources, tools, and assessments to assist deaf and hard-of-hearing children in becoming linguistically ready for formal school entry (either itinerant services, West Virginia Universal PreK/PreK Special Needs, or Kindergarten) using the mode(s) of communication and language(s) chosen by the parents.

(i) If a deaf or hard-of-hearing child does not demonstrate progress in receptive and expressive language skills, as measured by one of the educator tools or assessments, or by the existing instrument used to assess the development of children with disabilities pursuant to federal law, as applicable, the child's individualized family service plan (IFSP) team and individual education program (IEP) team shall, as part of the process required

by federal law, explain in detail the reasons why the child is not meeting the language developmental milestones or progressing towards them, and shall recommend specific strategies, services, and programs that shall be provided to assist the child's success toward English literacy development.

(j) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall establish an advisory committee to solicit input from stakeholders identified herein on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-of-hearing, for inclusion in the family resource developed pursuant to this section.

(k) The advisory committee shall be comprised of volunteer individuals representing all known modes of communication, specifically including the following:

(1) One parent of a child who is hard-of-hearing who uses the dual languages of American Sign Language (ASL) and English;

(2) One parent of a child who is deaf or hard-of-hearing who uses assistive technology to communicate with spoken English;

(3) Two or three credentialed providers, early interventionists, speech pathologists, educators, or other service providers of deaf or hard-of-hearing children who are knowledgeable in the use of the dual languages of English and American Sign Language (ASL);

(4) Two or three credentialed providers, early interventionists, speech pathologists, educators, or other service provider of deaf or hard-of-hearing children who are knowledgeable in the use of assistive technology to communicate with spoken English;

(5) One expert who researches or is knowledgeable in the research regarding language outcomes for deaf and hard-of-hearing children using American Sign Language (ASL) or English;

(6) One expert who researches or is knowledgeable in the research regarding language outcomes for deaf and hard-of-hearing

children using assistive technology to communicate with spoken English.

(7) One credentialed educator of deaf and hard-of-hearing children whose expertise is in curriculum and instruction in American Sign Language (ASL) and English;

(8) One credentialed educator of deaf and hard-of-hearing children whose expertise is in curriculum and instruction in assistive technology to communicate with spoken English;

(9) One advocate for the teaching and use of the dual languages of American Sign Language (ASL) and English;

(10) One advocate for the teaching and use of instruction in assistive technology to communicate with spoken English; and,

(11) One educational audiologist who can address the issues of aural habilitation and assistive technology to advocate for children using spoken language in mainstream environments.

(l) The advisory committee may also advise the West Virginia Department of Health and Human Resources and the West Virginia Department of Education on the content and administration of the existing instrument used to assess the development of children with disabilities pursuant to federal law, as used to assess deaf and hard-of-hearing children's language and literacy development to ensure the appropriate use of that instrument with those children, and make recommendations regarding future research to improve the measurement of progress of deaf and hard-of-hearing children in language and literacy.

(m) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall provide the advisory committee with a list of existing language developmental milestones from existing standardized norms, along with any relevant information held by the departments regarding those language developmental milestones for possible inclusion in the family resource developed pursuant to this section.

(n) After reviewing, the advisory committee shall recommend to the West Virginia Department of Health and Human Resources and the West Virginia Department of Education language developmental milestones for selection.

(o) Commencing on or before July 31, 2021, and on or before each July 31 thereafter, the West Virginia Department of Education shall annually produce an aggregated report, using existing data reported in compliance with the federally required state performance plan on children with disabilities, that is specific to language and literacy development of children whose primary exceptionality is deaf and hard-of-hearing from birth to five years of age, inclusive, including those who are deaf or hard-of-hearing and have other disabilities, relative to their peers who are not deaf or hard-of-hearing. The departments shall make this report available to the advisory committee, the Legislative Oversight Commission on Education Accountability, the Legislative Oversight Commission on Health and Human Resources Accountability, and available to others upon request.

(p) All activities of the West Virginia Department of Health and Human Resources and the West Virginia Department of Education in implementing this code shall be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of student information.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4414 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-20, relating to authorizing certain modes of communication as a means for acquiring language for children from birth to five years of age; making implementation subject to appropriation by the Legislature; requiring reporting of measures specific to language and literacy for children age three to five to advisory committee; requiring the West Virginia Department of Health and Human Resources and the West Virginia Department of Education to jointly select language developmental milestones

from existing standardized norms, to develop a family resource for use by families and service providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive language acquisition and progress toward English literacy development; requiring the West Virginia Department of Health and Human Resources and the West Virginia Department of Education to prepare a list of valid and reliable existing tools for assessments for service providers that can be used periodically to determine the receptive and expressive language and literacy development of deaf and hard-of-hearing children; requiring dissemination of the family resource and the educator tools and assessments, as well as the provision of informational materials on the use of the resources, tools, and assessments; imposing certain requirements on the child's individualized family service plan team and individual education program team if a deaf or hard-of-hearing child does not demonstrate progress in receptive and expressive language skills; requiring the West Virginia Department of Health and Human Resources and the West Virginia Department of Education to establish an advisory committee to solicit input from certain stakeholders on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-of-hearing for inclusion in the family resource; setting forth membership of advisory committee; requiring the West Virginia Department of Education to annually produce an aggregated report that is specific to language and literacy development of children whose primary exceptionality is deaf and hard-of-hearing from birth to five years of age; and requiring that all of certain activities be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of student information."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 546**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4414) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4415, Relating to missing and endangered children.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 3D. MISSING PERSONS ACT.

§15-3D-3. Definitions.

For the purposes of this article:

(1) ‘CODIS’ means the Federal Bureau of Investigation’s Combined DNA Index System, which allows for the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories. The term ‘CODIS’ includes the National DNA Index System or NDIS, administered and operated by the Federal Bureau of Investigation.

(2) ‘Complainant’ means a person who contacts law enforcement to report that a person is missing.

(3) ‘Electronic communication device’ means a cellular telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal

communication device, two-way messaging device, electronic game, or portable computing device.

(4) ‘Juvenile’ means any person under ~~21~~ 18 years of age.

(5) ‘Law-enforcement agency’ means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof.

(6) ‘Lead law-enforcement agency’ means the law-enforcement agency that initially receives a missing persons complaint or, after the fulfillment of all requirements of this article related to the initial receipt of a missing persons complaint and transmission of information to required databases, the law-enforcement agency with the primary responsibility for investigating a missing or unidentified persons complaint.

(7) ‘Missing and endangered child’ means any missing child for which there are substantial indications the child is at high risk of harm or in immediate danger, and rapid action is required, including, but not limited to:

(A) Physically or mentally disabled and dependent upon an agency or another individual for care;

(B) Under the age of 13;

(C) Missing under circumstances which indicate the child’s safety may be in danger; or

(D) A foster child and has been determined a missing and endangered child by the Department of Health and Human Resources.

(8) ‘Missing child’ means any child under the age of 18 whose whereabouts are unknown to the child’s legal custodian.

(9) ‘Missing person’ means any person who is reported missing to a law-enforcement agency.

~~(8)~~ (10) ‘NamUs’ means the database of the National Missing and Unidentified Persons System.

~~(9)~~ (11) ‘NCIC’ means the database of the National Crime Information Center, the nationwide, online computer telecommunications system maintained by the Federal Bureau of Investigation to assist authorized agencies in criminal justice and related law-enforcement objectives.

~~(10)~~ (12) ‘NCMEC’ means the database of the National Center for Missing and Exploited Children.

~~(11)~~ (13) ‘Unidentified person’ means any person, living or deceased, who has not been identified through investigation for over 30 days.

~~(12)~~ (14) ‘Violent Criminal Apprehension Program’ or ‘ViCAP’ is a unit of the Federal Bureau of Investigation responsible for the analysis of serial violent and sexual crimes.

~~(13)~~ (15) ‘WEAPON system’ means the West Virginia Automated Police Network.

§15-3D-9. Missing and Endangered Child Advisory System; definitions; rule-making authority.

(a) There is hereby created an advisory system, referred to in this section as the ‘system’, to aid in the identification and location of missing and endangered children.

(b) ‘Missing and Endangered Child Advisory’ means a system used to alert the public of a missing and endangered child to aid in the child’s rapid recovery.

(c) The State Police shall promulgate emergency rules establishing procedures for local law-enforcement agency’s issuance of a missing and endangered child advisory.

CHAPTER 49. CHILD WELFARE.

ARTICLE 6. MISSING CHILDREN INFORMATION ACT.

§49-6-103. Information to clearinghouse; definitions.

(a) ~~Every~~ The Department of Health and Human Resources and every law-enforcement agency in West Virginia shall provide to the clearinghouse or another investigating law-enforcement agency any information ~~the law-enforcement agency has~~ that would assist in locating or identifying a missing child.

(b) For purposes of this article:

(1) 'Missing and endangered child' means any missing child for which there are substantial indications the child is at high risk of harm or in immediate danger, and rapid action is required, including, but not limited to:

(A) Physically or mentally disabled and dependent upon an agency or another individual for care;

(B) Under the age of 13;

(C) Missing under circumstances which indicate the child's safety may be in danger; or

(D) A foster child and has been determined a missing and endangered child by the Department of Health and Human Resources.

(2) 'Missing child' means any child under the age of 18 whose whereabouts are unknown to the child's legal custodian.

§49-6-105. Missing child report forms; where filed.

(a) The clearinghouse shall distribute missing child and missing and endangered child report forms to law-enforcement agencies in the state and to the Department of Health and Human Resources.

(b) A missing child or missing and endangered child report may be made to a law-enforcement agency in person or by telephone, or other indirect method of communication, and the person taking the report may enter the information on the form for the reporter. A missing child or missing and endangered child report form may

be completed by the reporter and delivered to a law-enforcement office.

(c) A copy of the ~~missing child~~ report form shall be ~~filed with~~ maintained by the clearinghouse.

§49-6-106. Missing child reports; law-enforcement agency requirements; unidentified bodies.

(a) A law-enforcement agency, upon receiving a missing child or missing and endangered child report, shall:

(1) ~~Immediately start~~ Start an investigation to determine the present location of the child if it determines that the child is in danger; and

(2) Enter the name of the missing child or missing and endangered child into the clearinghouse and the National Crime Information Center missing person file if the child meets the center's criteria, with all available identifying features, including dental records, fingerprints, other physical characteristics, and a description of the clothing worn when the missing child or missing and endangered child was last seen.

(b) Information not immediately available shall be obtained as soon as possible by the law-enforcement agency and entered into the clearinghouse and the National Crime Information Center file as a supplement to the original entry.

(c) All West Virginia law-enforcement agencies shall enter information about all unidentified bodies of children found in their jurisdiction into the clearinghouse and the National Crime Information Center unidentified person file, including all available identifying features of the body and a description of the clothing found on the body. If an information entry into the National Crime Information Center file results in an automatic entry of the information into the clearinghouse, the law-enforcement agency is not required to make a direct entry of that information into the clearinghouse.

(d) A law-enforcement agency, upon receiving a missing and endangered child report, shall immediately:

(1) Start an investigation to determine the present location of the child if it determines that the child is missing and endangered; and

(2) Issue a Missing and Endangered Child Advisory pursuant to §15-3D-9 of this code.

§49-6-109. Interagency cooperation.

(a) State agencies and public and private schools shall cooperate with a law-enforcement agency that is investigating a any missing child or missing and endangered child report and shall furnish any information, including confidential information, that will assist the law-enforcement agency in completing the investigation.

(b) Information provided by a state agency or a public or private school may not be released to any person outside the law-enforcement agency or the clearinghouse, except as provided by rules of the West Virginia State Police.

§49-6-110. Confidentiality of records; rulemaking; requirements.

(a) The State Police shall promulgate rules according §29A-3-1 *et seq.* of this code to provide for the classification of information and records as confidential that:

(1) Are otherwise confidential under state or federal law or rules promulgated pursuant to state or federal law;

(2) Are related to the investigation by a law-enforcement agency of a missing child, a missing and endangered child, or an unidentified body, if the State Police, in consultation with the law-enforcement agency, determines that release of the information would be deleterious to the investigation;

(3) Are records or notations that the clearinghouse maintains for internal use in matters relating to missing children or missing and endangered children and unidentified bodies and the State Police determines that release of the internal documents might interfere with an investigation by a law-enforcement agency in West Virginia or any other jurisdiction; or

(4) Are records or information that the State Police determines might interfere with an investigation or otherwise harm a child or custodian.

(b) The rules may provide for the sharing of confidential information with the custodian of the missing child or missing and endangered child: *Provided*, That confidential information, which is not believed to jeopardize an investigation, must be shared with the custodian when the legal custodian is the Department of Health and Human Resources.

§49-6-112. Agencies to receive report; law-enforcement agency requirements.

(a) Upon completion of the missing child or missing and endangered child report the law-enforcement agency shall immediately forward the contents of the report to the missing children information clearinghouse and the National Crime Information Center's missing person file. However, if an information entry into the National Crime Information Center file results in an automatic entry of the information into the clearinghouse, the law-enforcement agency is not required to make a direct entry of that information into the clearinghouse.

(b) Within 15 days of completion of the report, if the child is less than 13 years of age the law-enforcement agency may, when appropriate, forward the contents of the report to the last:

(1) Child care center or child care home in which the child was enrolled; or

(2) School the child attended in West Virginia, if any.

(c) A law-enforcement agency involved in the investigation of a missing child or missing and endangered child shall:

(1) Update the initial report filed by the agency that received notification of the missing child or missing and endangered child upon the discovery of new information concerning the investigation;

(2) Forward the updated report to the appropriate agencies and organizations;

(3) Search the National Crime Information Center's wanted person file for reports of arrest warrants issued for persons who allegedly abducted or unlawfully retained children and compare these reports to the missing child's National Crime Information Center's missing person file; and

(4) Notify all law-enforcement agencies involved in the investigation, the missing children information clearinghouse, and the National Crime Information Center when the missing child is located.

§49-6-113. Clearinghouse Advisory Council; members, appointments and expenses; appointment, duties and compensation of director; annual reports.

(a) The Clearinghouse Advisory Council is continued as a body corporate and politic, constituting a public corporation and government instrumentality. The council shall consist of 11 members who are knowledgeable about and interested in issues relating to missing or exploited children, as follows:

(1) Six members to be appointed by the Governor, with the advice and consent of the Senate, with not more than four belonging to the same political party, three being from different congressional districts of the state and, as nearly as possible, providing broad state geographical distribution of members of the council, and at least one representing a nonprofit organization involved with preventing the abduction, runaway, or exploitation of children or locating missing or missing and endangered children;

(2) The Secretary of the Department of Health and Human Resources or his or her designee;

(3) The Superintendent of the West Virginia State Police or his or her designee;

(4) The State Superintendent of Schools or his or her designee;

(5) The Director of the ~~Criminal Justice and Highway Safety~~ Division of Administrative Services or his or her designee; and

(6) The Commissioner of the Bureau for Children and Families or his or her designee.

(b) The Governor shall appoint the six council members for staggered terms. The terms of the members first taking office on or after the effective date of this legislation shall expire as designated by the Governor. Each subsequent appointment shall be for a full three-year term. Any appointed member whose term is expired shall serve until a successor has been duly appointed and qualified. Any person appointed to fill a vacancy may serve only for the unexpired term. A member is eligible for only one successive reappointment. A vacancy shall be filled by the Governor in the same manner as the original appointment was made.

(c) Members of the council are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(d) A majority of serving members constitutes a quorum for the purpose of conducting business. The chair of the council shall be designated by the Governor from among the appointed council members who represent nonprofit organizations involved with preventing the abduction, runaway, or exploitation of children or locating missing children or missing and endangered children. The term of the chair shall run concurrently with his or her term of office as a member of the council. The council shall meet semiannually at the call of the chair. The council shall conduct all

meetings in accordance with the open governmental meetings law pursuant to §6-9A-1 *et seq.* of this code.

(e) The employee of the West Virginia State Police who is primarily responsible for the clearinghouse established by §49-6-101 of this code, shall serve as the executive director of the council. He or she shall receive no additional compensation for service as the executive director of the council but shall be reimbursed for any reasonable and necessary expenses actually incurred in the performance of his or her duties as executive director in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

~~(f) The expenses of council members and the executive director shall be reimbursed from funds provided by foundation grants, in-kind contributions or funds obtained pursuant to subsection (b), section one hundred fifteen of this article.~~

~~(g)~~ The executive director shall provide or obtain information necessary to support the administrative work of the council and, to that end, may contract with one or more nonprofit organizations or state agencies for research and administrative support.

~~(h)~~ (g) The executive director of the council shall be available to the Governor and to the Speaker of the House of Delegates and the President of the Senate to analyze and comment upon proposed legislation and rules which relate to or materially affect missing or exploited children.

~~(i)~~ (h) The council shall prepare and publish an annual report of its activities and accomplishments and submit it to the Governor and to the ~~Joint Committee on Government and Finance~~ the Legislature on or before December 15 of each year.

§49-6-114. Powers and duties of clearinghouse advisory council; comprehensive strategic plan required to be provided to the Legislature.

The council shall prepare a comprehensive strategic plan and recommendation of programs in furtherance thereof that will support efforts to prevent the abduction, runaway and exploitation,

or any thereof, of children to locate missing children, advise the West Virginia State Police regarding operation of the clearinghouse and its other responsibilities under this article, and cooperate with and coordinate the efforts of state agencies and private organizations involved with issues relating to missing or exploited children. The council may seek public and private grants, contracts, matching funds, and procurement arrangements from the state and federal government, private industry, and other agencies in furtherance of its mission and programs. An initial comprehensive strategic plan that will support and foster efforts to prevent the abduction, runaway, and exploitation of children, and to locate missing children, shall be developed and provided to the Governor, the Speaker of the House of Delegates, and the President of the Senate no later than ~~July 1, 2015~~ July 1, 2020, and shall include, but not be limited to, the following:

(1) Findings and determinations regarding the extent of the problem in this state related to: (A) Abducted children; (B) ~~runaway~~ missing children; ~~and~~ (C) exploited children; and (D) missing and endangered children.

(2) Findings and determinations identifying the systems, both public and private, existing in the state to prevent the abduction, runaway, or exploitation of children, and to locate missing children, and assessing the strengths and weaknesses of those systems and the clearinghouse;

(3) The inclusion of exploited children within the functions of the clearinghouse. For purposes of this article, an exploited child is a person under the age of 18 years who has been: (A) Used in the production of pornography; (B) subjected to sexual exploitation or sexual offenses under §61-8B-1 *et seq.* of this code; or (C) employed or exhibited in any injurious, immoral, or dangerous business or occupation in violation of §61-8-5 through 61-8-8 of this code;

(4) Recommendations of legislative changes required to improve the effectiveness of the clearinghouse and other efforts to prevent abduction, runaway, or exploitation of children, and to

locate missing children. Those recommendations shall consider the following:

(A) Interaction of the clearinghouse with child custody proceedings;

(B) Involvement of hospitals, child care centers, and other private agencies in efforts to prevent child abduction, runaway, or exploitation, and to locate missing children;

(C) Publication of a directory of and periodic reports regarding missing children;

(D) Required reporting by public and private agencies and penalties for failure to report and false reporting;

(E) Removal of names from the list of missing children;

(F) Creating of an advocate for missing and exploited children;

(G) State funding for the clearinghouse and efforts to prevent the abduction, runaway, and exploitation of children, and to locate missing children;

(H) Mandated involvement of state agencies, such as publication of information regarding missing children in existing state publications and coordination with the state registrar of vital statistics under §16-5-12 of this code; and

(I) Expanded requirement for boards of education to notify the clearinghouse in addition to local law-enforcement agencies under §18-2-5c of this code or if a birth certificate or school record received appears to be inaccurate or fraudulent and to receive clearinghouse approval before releasing records;

(5) Methods that will coordinate and engender collaborative efforts among organizations throughout the state, whether public or private, involved with missing or exploited children;

(6) Plans for the use of technology in the clearinghouse and other efforts related to missing or exploited children;

(7) Compliance of the clearinghouse, state law, and all rules promulgated pursuant thereto with applicable federal law so as to enhance opportunities for receiving federal grants;

(8) Consultation with the state board of education and other agencies responsible for promulgating rules under this article;

(9) Possible methods for identifying missing children prior to enrollment in a public or nonpublic school;

(10) The feasibility and effectiveness of utilizing the federal parent locator service in locating missing children; and

(11) Programs for voluntary fingerprinting.

§49-6-116. Establish a missing foster child locator unit program.

(a) The Secretary of the West Virginia Department of Health and Human Resources shall establish a Missing Foster Child Locator Unit within the department with a minimum staffing of a northern-based caseworker, a southern-based caseworker, and an identified worker located in the Centralized Intake Unit.

(b) The duties of the Missing Foster Child Locator Unit shall include, but are not limited to, the following:

(1) Receiving reports of missing foster children;

(2) Assisting law enforcement in locating missing foster children who have been reported missing; and

(3) Interviewing missing foster children and completing trafficking screening once the child is located.

(c) For this section, ‘missing foster child’ means missing child or missing and endangered child, as defined in §49-6-103 of this code, who is a foster child at the time he or she was reported missing.

(d) Beginning in July 1, 2021, and each year thereafter, the Secretary of the Department of Health and Human Resources shall

provide a status report to the Legislative Oversight Committee on Health and Human Resources Accountability.

(e) The secretary shall implement and administer this program at least until December 31, 2022. The secretary may administer this program after such date.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4415 – “A Bill to amend and reenact §15-3D-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §15-3D-9; to amend and reenact §49-6-103, §49-6-105, §49-6-106, §49-6-109, §49-6-110, §49-6-112, §49-6-113, and §49-6-114; and to amend said code by adding thereto a new section, designated §49-6-116, all relating to children; defining terms; creating missing and endangered child advisory system; providing for rulemaking; expanding missing child information clearinghouse requirements; updating requirements for providing information; updating requirements for missing child report forms; requiring law-enforcement agency to investigate and issue advisory; providing for confidential information to be provided to Department of Health and Human Resources as legal custodian; updating clearinghouse advisory council; updating comprehensive strategic plan; establishing missing foster child locator unit program; establishing duties; providing for report; and making technical changes.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 547**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4415) passed.

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

A message from the Senate, by

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

H. B. 4417, Relating to permitting professional boards.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4478, Creating a lifetime ban for commercial drivers involved in human trafficking.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. COMMERCIAL DRIVER’S LICENSE.

§17E-1-13. Disqualification.

(a) A person may not operate a commercial motor vehicle if his or her privilege to operate a commercial motor vehicle is disqualified under the provisions of the Federal Motor Carrier Safety Improvement Act of 1999, 49 C. F. R. Part §383, Subpart D (2004) or in accordance with the provisions of this section.

(1) For the purposes of determining first and subsequent violations of the offenses listed in this section, each conviction resulting from a separate incident includes convictions for offenses committed in a commercial motor vehicle or a noncommercial motor vehicle.

(2) Any person disqualified from operating a commercial motor vehicle for life under the provisions of this chapter for offenses described in subdivisions (1), (2), (3), (4) and (6), subsection (b) of this section is eligible for reinstatement of

privileges to operate a commercial motor vehicle after 10 years and after completion of the Safety and Treatment Program or other appropriate program prescribed by the division. Any person whose lifetime disqualification has been amended under the provisions of this subdivision, and who is subsequently convicted of a disqualifying offense described in subdivisions (1) through (~~8~~7), inclusive, subsection (b) of this section, is not eligible for reinstatement. Any person disqualified from operating a commercial motor vehicle for life under subsection (n) of this section is not eligible for reinstatement.

(3) Any person who committed a disqualifying offense contained in paragraph (B) or (E), subdivision (1), subsection (b) of this section prior to obtaining a commercial driver's license, and who committed the disqualifying offense more than 10 years before he or she applied for a commercial driver's license, and who has completed the Safety and Treatment Program or other appropriate program prescribed by the division, shall be considered to have served the period of disqualification and ~~shall be~~ is eligible to obtain a commercial driver's license so long as all other eligibility requirements contained in §17E-1-9 and §17E-1-10 of this code are satisfied.

(4) Any disqualification imposed by this section is in addition to any action to suspend, revoke, or cancel the driver's license or driving privileges if suspension, revocation, or cancellation is required under another provision of this code.

(5) The provisions of this section apply to any person operating a commercial motor vehicle and to any person holding a commercial driver's license.

(b) Any person is disqualified from driving a commercial motor vehicle for the following offenses and time periods if convicted of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one year.

(C) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or for refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(2) Driving a commercial motor vehicle while the person's alcohol concentration of the person's blood, breath, or urine is four hundredths of one percent or more, by weight;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(3) Refusing to submit to any designated secondary chemical test required by the provisions of this code or the provisions of 49 C. F. R. §383.72 (2004);

(A) For the first conviction or refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction or refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(4) Leaving the scene of an accident;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(5) Using a motor vehicle in the commission of any felony as defined in §17E-1-3 of this code; ~~except that the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance falls under the provisions of subdivision (8) of this subsection~~ subsection (n) except as set forth specifically in subsection (n) of this section;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(6) Operating a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's privilege to operate a motor vehicle has been suspended, revoked, or canceled, or the driver's privilege to operate a commercial motor vehicle has been disqualified.

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(7) Causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent homicide as defined in §17B-3-5, and §17C-5-1 of this code;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

~~(8) Using a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance, a driver is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.~~

(c) Any person is disqualified from driving a commercial motor vehicle if convicted of:

(1) Speeding excessively involving any speed of 15 miles per hour or more above the posted speed limit;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is

disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder shall be disqualified from operating a commercial motor vehicle for a period of 120 days.

(2) Reckless driving as defined in §17C-5-3 of this code, careless or negligent driving, including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results

in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(3) Making improper or erratic traffic lane changes;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is

disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(4) Following the vehicle ahead too closely;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified

from operating a commercial motor vehicle for a period of 120 days.

(5) Violating any law relating to traffic control arising in connection with a fatal accident, other than a parking violation;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(6) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is

disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120 days.

(7) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession except that any person who provides proof of possession of a commercial driver's license to the enforcement agency that issued the citation by the court appearance or fine payment deadline is not guilty of this offense;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(8) Driving a commercial motor vehicle without the proper class of commercial driver's license or the proper endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial

driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant to §17E-1-14a of this code or similar law of this or any other jurisdiction or 49 C. F. R. §392.80;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60 days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of 120 days.

(d) Any person convicted of operating a commercial motor vehicle in violation of any federal, state, or local law or ordinance pertaining to railroad crossing violations described in subdivisions (1) through (6), inclusive, of this subsection is disqualified from operating a commercial motor vehicle for the period of time specified;

(1) Failing to slow down and check that the tracks are clear of an approaching train, if not required to stop in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required to stop in accordance with the provisions of §17C-12-1 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(3) Failing to stop before driving onto the crossing, if required to stop in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, the driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(4) Failing to have sufficient space to drive completely through the crossing without stopping in accordance with the provisions of §17C-12-3 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(5) Failing to obey a traffic control device or the directions of an enforcement official at the crossing in accordance with the provisions of §17C-12-1 of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(6) Failing to negotiate a crossing because of insufficient undercarriage clearance in accordance with the provisions of §17C-12-3 of this code.

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of 60 days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(e) Any person who is convicted of violating an out-of-service order while operating a commercial motor vehicle is disqualified for the following periods of time:

(1) If convicted of violating a driver or vehicle out-of-service order while transporting nonhazardous materials;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

(B) For a second conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for two years.

(C) For a third or subsequent conviction in a separate incident within a 10-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(2) If convicted of violating a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004) or while operating a vehicle designed to transport 16 or more passengers including the driver;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a third or subsequent conviction in a separate incident within a 10-year period for violating an out-of-service order while

operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(f) After disqualifying, suspending, revoking, or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days.

(g) In accordance with the provisions of 49 U. S. C. §313119(a)(19)(2004), and 49 C. F. R. §384.226 (2004), notwithstanding the provisions of §61-11-25 of this code, no record of conviction, revocation, suspension, or disqualification related to any type of motor vehicle traffic control offense, other than a parking violation, of a commercial driver's license holder or a person operating a commercial motor vehicle may be masked, expunged, deferred, or be subject to any diversion program.

(h) Notwithstanding any provision in this code to the contrary, the division may not issue any temporary driving permit, work-only driving permit, or hardship license or permit that authorizes a person to operate a commercial motor vehicle when his or her privilege to operate any motor vehicle has been revoked, suspended, disqualified, or otherwise canceled for any reason.

(i) In accordance with the provisions of 49 C. F. R. §391.15(b), a driver is disqualified from operating a commercial motor vehicle for the duration of any suspension, revocation, or cancellation of his or her driver's license or privilege to operate a motor vehicle by this state or by any other state or jurisdiction until the driver complies with the terms and conditions for reinstatement set by this state or by another state or jurisdiction.

(j) In accordance with the provisions of 49 C. F. R. §353.52 (2006), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle upon a notice from the assistant administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Any disqualification period imposed under the provisions of this subsection shall be served concurrently with any other period of disqualification if applicable.

(k) In accordance with the provisions of 49 C. F. R. §1572.11(a), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle if the driver fails to surrender his or her driver's license with a hazardous material endorsement to the division upon proper notice by the division to the driver that the division received notice from the Department of Homeland Security Transportation Security Administration of an initial determination of threat assessment and immediate revocation that the driver does not meet the standards for security threat assessment provided in 49 C. F. R. §1572.5. The disqualification remains in effect until the driver either surrenders the driver's license to the division or provides the division with an affidavit attesting to the fact that the driver has lost or is otherwise unable to surrender the license.

(l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a commercial motor vehicle if the driver is not physically qualified to operate a commercial motor vehicle or does not possess a valid medical certification status.

(m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify a driver's privilege to operate a commercial motor vehicle if the division determines that the licensee has falsified any information or certifications required under the provisions of 49 C. F. R. 383 Subpart J or 49 C. F. R. §383.71(a) for 60 days in addition to any other penalty prescribed by this code.

(n) Lifetime Disqualification Without Reinstatement.—

(1) Controlled substance violations — An individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or involving possession with intent to manufacture, distribute, or dispense a controlled substance is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

(2) Human trafficking violations — An individual who uses a commercial motor vehicle in committing a felony involving an act

or practice described in paragraph (9) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)) is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4478 - “A Bill to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended, relating to the lifetime disqualification without reinstatement from operating a commercial motor vehicle for individuals who use a commercial motor vehicle in committing certain felony acts relating to controlled substance violations or human trafficking violations.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 548**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4478) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4504, Relating to renewal application requirements for individuals with permanent disabilities.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 13. STOPPING, STANDING, AND PARKING.

§17C-13-6. Stopping, standing, or parking privileges for persons with a mobility impairment; disabled veterans; definitions; qualification; special registration plates and removable windshield placards; expiration, application; violation; penalties.

(a)(1) The commissioner may issue up to two special registration plates or removable windshield placards to a person with a mobility impairment or a West Virginia organization which transports persons with disabilities and facilitates the mobility of its customers, patients, students, or persons otherwise placed under its responsibility.

(2) Special registration plates or placards may only be issued for placement on a Class A or Class G motor vehicle registered under the provisions of §17A-3-1 *et seq.* of this code.

(3) The applicant shall specify whether he or she is applying for a special registration plate, a removable windshield placard, or both on the application form prescribed and furnished by the commissioner.

(4) The applicant shall submit, with the application, a certificate issued by any physician, chiropractor, advanced nurse practitioner, or physician’s assistant who is licensed in this state, stating that the applicant has a mobility impairment, or that the applicant is an organization which regularly transports a person with a mobility impairment as defined in this section. The physician, chiropractor, advanced nurse practitioner, or physician’s assistant shall specify in the certificate whether the disability is temporary or permanent. ~~A disability which is temporary shall not exceed six months. A disability which is permanent is one which is one to five years or more in expected duration. A disability which is temporary is one expected to last for a limited duration and improve during the applicant’s life. A disability which is~~

permanent is one which is expected to last during the duration of the applicant's life.

(5) Upon receipt of the completed application, the physician's certificate and the regular registration fee for the applicant's vehicle class, if the commissioner finds that the applicant qualifies for the special registration plate or a removable windshield placard as provided in this section, he or she shall issue to the applicant a special registration plate (upon remittance of the regular registration fee) or a removable windshield placard (red for temporary and blue for permanent), or both. Upon request, the commissioner shall also issue to any otherwise qualified applicant one additional placard having the same expiration date as the applicant's original placard. The placard shall be displayed by hanging it from the interior rearview mirror of the motor vehicle so that it is conspicuously visible from outside the vehicle when parked in a designated accessible parking space. The placard may be removed from the rearview mirror whenever the vehicle is being operated to ensure clear vision and safe driving. Only in the event that there is no suitable rearview mirror in the vehicle may the placard be displayed on the dashboard of the vehicle.

(6) Organizations which transport people with disabilities will be provided with a placard which will permit them to park in a designated area for the length of time necessary to load and unload passengers. These vehicles must be moved to a nondesignated space once the loading or unloading process is complete.

(b) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a 'mobility impairment' means a person who is a citizen of West Virginia and as determined by a physician, allopath, or osteopath, chiropractor, advanced nurse practitioner, or physician's assistant licensed to practice in West Virginia:

(A) Cannot walk 200 feet without stopping to rest;

(B) Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device, or another person;

(C) Is restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(D) Uses portable oxygen;

(E) Has a cardiac condition to such an extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association; or

(F) Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic condition;

(2) 'Special registration plate' means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) 'Removable windshield placard' (permanent or temporary) means a two-sided, hanger-style placard measuring three inches by nine and one-half inches, with all of the following on each side:

(A) The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

(B) An identification number measuring one inch in height;

(C) An expiration date in numbers measuring one inch in height; and

(D) The seal or other identifying symbol of the issuing authority;

(4) ‘Regular registration fee’ means the standard registration fee for a vehicle of the same class as the applicant’s vehicle;

(5) ‘Public entity’ means state or local government or any department, agency, special purpose district, or other instrumentality of a state or local government;

(6) ‘Public facility’ means all or any part of any buildings, structures, sites, complexes, roads, parking lots, or other real or personal property, including the site where the facility is located;

(7) ‘Place or places of public accommodation’ means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

(A) Inns, hotels, motels, and other places of lodging;

(B) Restaurants, bars, or other establishments serving food or drink;

(C) Motion picture houses, theaters, concert halls, stadiums, or other places of exhibition or entertainment;

(D) Auditoriums, convention centers, lecture halls, or other places of public gatherings;

(E) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers, or other sales or rental establishments;

(F) Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals, or other service establishments;

(G) Terminals, depots, or other stations used for public transportation;

(H) Museums, libraries, galleries, or other places of public display or collection;

(I) Parks, zoos, amusement parks, or other places of recreation;

(J) Public or private nursery, elementary, secondary, undergraduate, or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies, or other social services establishments; and

(K) Gymnasiums, health spas, bowling alleys, golf courses, or other places of exercise or recreation;

(8) 'Commercial facility' means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity;

(9) 'Accessible parking' formerly known as 'handicapped parking' is the present phrase consistent with language within the Americans with Disabilities Act (ADA).

(10) 'Parking enforcement personnel' includes any law-enforcement officer as defined by §30-29-1 of this code, and private security guards, parking personnel, and other personnel authorized by a city, county, or the state to issue parking citations.

Any person who falsely or fraudulently obtains or seeks to obtain the special plate or the removable windshield placard provided for in this section, and any person who falsely certifies that a person is mobility impaired in order that an applicant may be issued the special registration plate or windshield placard under this section is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500. Any person who fabricates, uses, or sells unofficially issued windshield placards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500 per placard fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued identification cards to any person or

organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$700 per identification card fabricated, used, or sold. Any person who fabricates, uses, or sells unofficially issued labels imprinted with a future expiration date to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$700. Any person covered by this section who sells or gives away their officially issued windshield placard to any person or organization not qualified to apply or receive the placard and then reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she, or they may otherwise incur, shall lose their right to receive or use a special placard or special license plate for a period of not less than five years.

(c) The commissioner shall set the expiration date for special registration plates and permanent removable windshield placards on the last day of a given month and year, to be valid for a minimum of one year but not more than five years, after which time a new application must be submitted to the commissioner. After the commissioner receives the new application, signed by a certified physician, chiropractor, advanced nurse practitioner, or physician's assistant if required under this subsection, the commissioner shall issue: (i) A new special registration plate or new permanent removable windshield placard; or (ii) official labels imprinted with the new expiration date and designed so as to be placed over the old dates on the original registration plate or windshield placard: Provided, That a new application under this subsection must not be accompanied by a certificate pursuant to §17C-13-6(a)(4) of this code if a prior application is on file with the commissioner, such application includes a certificate issued pursuant to §17C-13-6(a)(4) of this code, such certificate specifies that the applicant's disability is permanent for life, and such certificate was made within 10 years of the new application.

(d) The commissioner shall set the expiration date of temporary removable windshield placards to be valid for a period of approximately six months after the application was received and approved by the commissioner.

(e) The commissioner shall issue to each applicant who is granted a special registration plate or windshield placard an identification card bearing the applicant's name, assigned identification number, and expiration date. The applicant shall thereafter carry this identification card on his or her person whenever parking in an accessible parking space. The identification card shall be identical in design for both registration plates and removable windshield placards.

(f) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps, or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every 12 or 24 inches apart along with the words 'no parking' in painted letters which are at least 12 inches in height. All accessible parking spaces must have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(g) A vehicle displaying a disabled veterans special registration plate issued pursuant to §17A-3-14(c)(6) of this code shall be recognized and accepted as meeting the requirements of this section.

(h) A vehicle from any other state, United States territory, or foreign country displaying an officially issued special registration plate, placard, or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of

this section, regardless of where the plate, placard, or decal is mounted or displayed on the vehicle.

(i) Stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities, including state, county, and municipal buildings and facilities, places of public accommodation, and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment and disabled veterans at all times.

(j) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: *Provided*, That this privilege does not mean that the vehicle may park in any zone where stopping, standing, or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this state is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise, these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment is guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(k) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand, or park a motor vehicle in an area designated, zoned, or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as ‘van accessible’ but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(l) All signs that designate areas as ‘accessible parking’ or that display the international symbol of access shall also include the words ‘Up to \$500 fine’.

(m) No person may stop, stand, or park a motor vehicle in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$300; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined \$500.

(n) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section

and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(o) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time, and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned, or designated accessible parking areas by the supervising law-enforcement agency.

(p) Local authorities who adopt the basic enforcement provisions of this section and issue their own local ordinances shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (o) of this section, if adopted by local authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys collected as fines shall be collected for and remitted to the state.

(q) The commissioner shall prepare and issue a document to applicants describing the privileges accorded a vehicle having a special registration plate and removable windshield placard as well as the penalties when the vehicle is being inappropriately used as described in this section and shall include the document along with the issued special registration plate or windshield placard. In addition, the commissioner shall issue a separate document informing the general public regarding the new provisions and

increased fines being imposed either by way of newspaper announcements or other appropriate means across the state.

(r) The commissioner shall ~~adopt and promulgate rules~~ propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code.”

And,

By amending the title of the bill to read as follows:

H. B. 4504 – “A Bill to amend and reenact §17C-13-6 of the Code of West Virginia, 1931, as amended, relating to application requirements for persons with a mobility impairment for special registration plates and removable windshield placards; modifying meaning of temporary and permanent disability; and providing for limited waiver of disability certification requirement.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 549**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4504) passed.

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

A message from the Senate, by

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

H. B. 4519, Establishing a summer youth intern pilot program within Department of Commerce.

A message from the Senate, by

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

Com. Sub. for H. B. 4546, Relating to tuberculosis testing for school superintendents.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4551, Relating to subsidized adoption.

Delegate Kessinger moved that the House concur in the following amendment of the bill by the Senate.

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4. COURT ACTIONS.

§49-4-112. Subsidized adoption and legal guardianship; conditions.

(a) From funds appropriated to the Department of Health and Human Resources, the secretary shall establish a system of assistance for facilitating the adoption or legal guardianship of children. An adoption subsidy shall be available for children who are legally free for adoption and who are dependents of the department. ~~or a child welfare agency licensed to place children for adoption.~~ A legal guardianship subsidy may not require the surrender or termination of parental rights. For either subsidy, the children must be in special circumstances because one or more of the following conditions inhibit their adoption or legal guardianship placement:

- (1) They have a physical or mental disability;
- (2) They are emotionally disturbed;
- (3) They are older children;
- (4) They are a part of a sibling group; or
- (5) They are a member of a racial or ethnic minority.

(b)(1) The department shall provide assistance in the form of subsidies or ~~other~~ services to parents who are found and approved for adoption or legal guardianship of a child certified as eligible for subsidy by the department, but before the final decree of adoption or order of legal guardianship is entered, there ~~must~~ shall be a written agreement between the family entering into the subsidized adoption or legal guardianship and the department.

(2) Adoption or legal guardianship subsidies in individual cases may commence with the adoption or legal guardianship placement and will vary with the needs of the child as well as the availability of other resources to meet the child's needs. The subsidy may be for ~~special~~ services, ~~only, or for~~ money payments, ~~and either~~ for a limited period, or for a long term, or for any combination of the foregoing.

(3) The specific financial terms of the subsidy shall be included in the agreement between the department and the adoptive parents or legal guardians. The agreement may recognize and provide for direct payment by the department of attorney's fees to an attorney representing the adoptive parent or legal guardian. Any such payment for attorney's fees shall be made directly to the attorney representing the adoptive parent or legal guardian.

(4) The amount of the ~~time limited or long term~~ subsidy may in no case exceed that which would be allowable ~~from time to time~~ for the child under foster family care or, in the case of a ~~special~~ service, the reasonable fee for the service rendered.

(5) ~~In addition,~~ The department shall provide either Medicaid or other health insurance coverage for any special needs child for whom there is an adoption or legal guardianship assistance agreement, and between the department and the adoptive parent or legal guardian and who the department determines cannot be placed with an adoptive parent or legal guardian without medical assistance. ~~because the child has special needs for medical, mental health, or rehabilitative care.~~

(c) ~~After reasonable efforts have been made without the use of subsidy and no appropriate adoptive family or legal guardian has~~

~~been found for the child, the~~ The department shall certify the child as eligible for a subsidy to obtain in the event of adoption or a legal guardianship ~~Reasonable efforts to place a child without a subsidy shall not be required if it is in the best interest of the child. because of the factors as the existence of significant emotional ties developed between the child and the prospective parent or guardian while in care as a foster child.~~

~~(d) If the child is the dependent of a voluntary licensed child-placing agency, that agency shall present to the department evidence of the inability to place the child for adoption or legal guardianship without the use of subsidy or evidence that the efforts would not be in the best interests of the child. In no event may the value of the services and assistance provided by the department under an agreement pursuant to this section exceed the value of assistance available to foster families in similar circumstances.~~

(d) All records regarding subsidized adoptions or legal guardianships are to be held in confidence; however, records regarding the payment of public funds for subsidized adoptions or legal guardianships shall be available for public inspection provided they do not directly or indirectly identify any child or person receiving funds for the child.

(e) A payment may not be made to adoptive parents or legal guardians of child:

(1) Who has attained 18 years of age, unless the department determines that the child has a special need which warrants the continuation of assistance or the child is continuing his or her education or actively engaging in employment;

(2) Who has obtained 21 years of age;

(3) Who has not attained 18 years of age, if the department determines that the adoptive parent or legal guardian is no longer supporting the child by performing actions to maintain a familial bond with the child.

(f) Adoptive parents and legal guardians who receive subsidy payments pursuant to this section shall keep the department

informed of circumstances which would, pursuant to §49-4-112(e) of this code, make them ineligible for the payment.”

And,

By amending the title of the bill to read as follows:

H. B. 4551 – “A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to subsidies; providing for adoption subsidies; providing for legal guardianship subsidies; updating availability; requiring payment for attorney’s fees; updating requirements for insurance coverage; requiring certification; eliminating requirements with respect to child who is dependent of voluntary licensed child placing agency; prohibiting subsidy payment under certain circumstances; requiring adoptive parents and legal guardians receiving subsidy to inform department; and making technical changes.”

Delegate Cowles inquired regarding his previous request to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the previous ruling that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill stands and directed the Member to vote.

The House then concurred in the Senate amendments.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 550**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4551) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4593, Authorizing the assignment of poll workers to serve more than one precinct under certain circumstances.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section five, line thirty-three, by striking out the word “notwithstanding” and inserting in lieu thereof the words “except as permitted by”.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4593 - “A Bill to amend and reenact §3-1-5 and §3-1-30 of the Code of West Virginia, 1931, as amended, all relating to authorizing the assignment of members of a standard receiving board to serve on the standard receiving board for more than one precinct in certain circumstances.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 551**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4593) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4621, West Virginia FinTech Regulatory Sandbox Act.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 8G. THE WEST VIRGINIA FINTECH REGULATORY SANDBOX PROGRAM.

§31A-8G-1. The West Virginia FinTech Regulatory Sandbox Program.

This article shall be known as the West Virginia FinTech Regulatory Sandbox Act.

§31A-8G-2. Definitions.

As used in this article:

‘Applicable agency’ means a department or agency of the state that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate a regulatory sandbox participant.

‘Applicant’ means an individual or entity that is applying to participate in the regulatory sandbox program.

‘Consumer’ means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a regulatory sandbox participant.

‘Distributed ledger’ means the use of a digital database containing records of financial transactions, including blockchain technology, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record

transactions between two parties in a verifiable and permanent way.

‘Division of Financial Institutions’ and ‘division’ mean the West Virginia Division of Financial Institutions.

‘Financial product or service’ means:

(A) A financial product or financial service that requires state licensure or registration; or

(B) A financial product or financial service that includes a business model, delivery mechanism, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by the West Virginia Division of Financial Institutions under chapters 31, 31A, 31C, and 32A-2 of this code or other related provisions; or

(C) In consultation with applicable agencies and with written agreement, a product or service that is governed by chapters 32 and 33 of this code.

‘Innovation’ means the use or incorporation of a new or emerging technology or a new use of existing technology, including distributed ledger, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the Division of Financial Institutions to have a comparable widespread offering in the state.

‘Innovative product or service’ means a financial product or service that includes an innovation.

‘Regulatory sandbox program’ or ‘regulatory sandbox’ means the West Virginia FinTech Regulatory Sandbox Program created by this article, which allows a person to temporarily test an innovative product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

‘Regulatory sandbox participant’, ‘sandbox participant’, or ‘participant’ means a person whose application to participate in the

regulatory sandbox program is approved in accordance with the provisions of this article.

‘Test’ means to provide an innovative product or service in accordance with the provisions of this chapter.

§31A-8G-3. Regulatory Sandbox Program; administration; application requirements; fee; rulemaking.

(a) There is created in the Division of Financial Institutions the Regulatory Sandbox Program.

(b) In administering the regulatory sandbox program, the Division of Financial Institutions:

(1) Shall consult with the West Virginia Development Office relating to the economic development opportunities relating to the potential regulatory sandbox participant and may consult with any applicable agency which otherwise may have jurisdiction or authority relating to any activity proposed for the regulatory sandbox program for which the applicant is seeking to proceed without authorization or license;

(2) Shall have the authority to promulgate rules in accordance with §31A-2-4 and §29A-3-1 *et seq.* of this code for the purposes of administering the regulatory sandbox program;

(3) Shall establish a program to an individual or an entity to partner with existing financial service providers operating within the state to obtain limited access to the market in the state to test an innovative product or service without obtaining a license or other authorization that might otherwise be required; and

(4) May enter into cooperative, coordinating, or information-sharing agreements with or follow the best practices of the federal Consumer Financial Protection Bureau or other states that are administering similar programs as well as other state agencies to carry out the mandates of this article.

(c) An applicant for the regulatory sandbox program shall provide to the Division of Financial Institutions an application in a form prescribed by the Division of Financial Institutions that:

(1) Demonstrates the applicant is subject to the jurisdiction of the state;

(2) Demonstrates the applicant is a domestic corporation or other organized domestic entity with an established physical location in the state; where all required records, documents, and data relating to any approved testing can be made available for review by the Division of Financial Institutions and any other applicable agency with jurisdiction;

(3) Demonstrates that the applicant has attempted to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia to implement the applicant's proposed test of an innovative product or service within the regulatory sandbox program: *Provided*, That the applicant shall not be excluded from participation in the regulatory sandbox program solely based on the applicant's ability to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia;

(4) Contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the Division of Financial Institutions;

(5) Discloses criminal convictions of the applicant or other participating personnel, if any, and submits to a criminal background investigation;

(6) Demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and a developed plan to test, monitor, and assess the innovative product or service;

(7) Contains a description of the innovative product or service to be tested, including statements regarding all of the following:

(A) How the innovative product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox program;

(B) How the innovative product or service would benefit consumers;

(C) How the innovative product or service is different from other products or services available in the state;

(D) What risks may confront consumers that use or purchase the innovative product or service;

(E) What measures will be put into place to limit potential risks and harm to consumers and to resolve complaints during the sandbox period;

(F) How participating in the regulatory sandbox program would enable a successful test of the innovative product or service;

(G) A description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(H) A description of how the applicant will perform ongoing duties after the test; and

(I) How the applicant will end the test and protect consumers if the test fails;

(8) Sets forth whether the applicant has been provided any license or authorization by any state or federal agency; whether any state or federal agency has previously investigated, sanctioned, or pursued legal action against the applicant; and whether the applicant has had licensure or authorization denied or withdrawn by any state or federal agency;

(9) Posts a consumer protection bond with the commissioner in accordance §31A-8G-4(j) of the Code as security for potential losses suffered by consumers: *Provided*, That the bond amount

shall not be less than \$5,000: *Provided, further,* That the commissioner may require that a bond be increased or decreased at any time based on risk profile, and shall expire two years after the date of the conclusion of the sandbox period;

(10) Demonstrates registration with the West Virginia Secretary of State;

(11) Demonstrates that the applicant has an exit plan to limit consumer harm at the end of the sandbox period, including a plan to notify consumers and advise them of next steps; and

(12) Provides any other information as required by the Division of Financial Institutions.

(d) The Division of Financial Institutions may collect an application fee of not more than \$1,500 from an applicant.

(e) An applicant shall file a separate application for each innovative product or service that the applicant wants to test.

(f) After an application is filed, the Division of Financial Institutions may seek additional information from the applicant as it deems necessary.

(g) Subject to subsection (h) of this section, not later than 90 days after the day on which a complete application is received by the Division of Financial Institutions, the division shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox program.

(h) The Division of Financial Institutions and an applicant may mutually agree to extend the 90-day time period described in subsection (g) of this section in order for the Division to determine whether an application is approved for entry into the regulatory sandbox program.

(i)(1) In reviewing an application under this section, the Division of Financial Institutions may consult with, and seek the approval of, any applicable agency before admitting an applicant into the regulatory sandbox program.

(2) The consultation with an applicable agency may include seeking information about whether:

(A) The applicable agency has previously issued a license or other authorization to the applicant;

(B) The applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;

(C) Whether the applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox program; and

(D) Whether certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox program.

(j) In reviewing an application under this section, the Division of Financial Institutions shall consider whether a competitor to the applicant is or has been a regulatory sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(k) If the Division of Financial Institutions approves admitting an applicant into the regulatory sandbox program, an applicant may become a regulatory sandbox participant.

(l)(1) The Division of Financial Institutions may deny any application submitted under this section, for any reason, at the division's discretion.

(2) If the Division of Financial Institutions denies an application submitted under this section, the division shall provide to the applicant a written description of the reasons for the denial as a regulatory sandbox participant.

(m) The division may enter into cooperative, coordinating, or information-sharing agreements with other federal and state agencies as necessary to fulfill the requirements of this article.

§31A-8G-4. Scope; testing period; licenses; consumer protections.

(a) If the Division of Financial Institutions approves an application under §31A-8G-3 of this code, the regulatory sandbox participant has 24 months after the day on which the application was approved to test the innovative product or service described in the sandbox participant's application.

(b) An innovative product or service that is tested within the regulatory sandbox program is subject to the following:

(1) All consumers participating in the innovative product or service being tested shall be residents of the state;

(2) The Division of Financial Institutions may, on a case-by-case basis, specify the maximum number of consumers that may transact through or enter into an agreement to use the innovative product or service:

(A) For a regular sandbox participant testing a consumer loan, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of an individual loan that may be issued to an individual consumer and the maximum amount of aggregate loans that may be issued to an individual consumer; and

(B) For a regulatory sandbox participant testing an innovative product or service that would normally require a money transmission license pursuant to this code, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of a single transaction for an individual consumer and the maximum aggregate amount of transactions for an individual consumer.

(c) This section does not restrict a regulatory sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(d) A regulatory sandbox participant is deemed to possess an appropriate license under the laws of this state for the purposes of

any provision of federal law requiring state licensure or authorization.

(e) Except as otherwise provided in this chapter, including subsections (f), (g), and (h), a regulatory sandbox participant that is testing an innovative product or service is not subject to state laws that regulate financial products or services.

(f) Regulatory sandbox participants and the innovative products and services that they are testing in the regulatory sandbox program are subject to all applicable consumer protection laws, including, but not limited to those contained in Chapters 46A of the West Virginia Code, the Collection Agency Act contained in Chapter 47A of this code, and any limitations on interest rates, whether of not those interest rates would otherwise require licensure.

(g)(1) The Division of Financial Institutions may determine that additional state laws that regulate a financial product or service apply to a regulatory sandbox participant if the Division of Financial Institutions, at its sole discretion, determines that an applicant's proposed a testing plan or the product or service to be tested poses significant risk to consumers or to the safety and soundness of other institutions within the financial services marketplace as to warrant the imposition of other applicable state laws.

(2) The Division of Financial Institutions shall determine the applicability of certain state laws to each innovative product or service prior to approval of any application to participate in the regulatory sandbox program and shall notify the regulatory sandbox participant of the specific regulatory provisions that shall apply to the innovative product or service throughout the duration of the testing period.

(3) If at any time during the testing period, the Division of Financial Institutions determines that the imposition of certain state laws is necessary to eliminate the risk of harm to consumers or the safety and soundness of other institutions operating within the financial services marketplace, the division may require that the

regulatory sandbox participant come into compliance with such state laws within a reasonable time.

(h) Notwithstanding any other provision of this chapter, a regulatory sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.

(i) By written notice, the Division of Financial Institutions may end a regulatory sandbox participant's participation in the program at any time and for any reason, including if the Division of Financial Institutions determines a sandbox participant is not operating in good faith to bring an innovative product or service to market.

(j) The commissioner shall require the regulatory sandbox participant to post a consumer protection bond with the commissioner as security for potential losses suffered by consumers. The bond amount shall be determined by the commissioner in consultation with the admitted sandbox participant in an amount not less than \$5,000 and shall be commensurate with the risk profile of the innovative financial product or service. The commissioner may accept electronic bonds from any participant;

(k) The commissioner may:

(1) Require that a bond be increased or decreased at any time based on risk profile and shall provide the regulatory sandbox participant with 30 days prior written notice;

(2) Use bond proceeds to offset losses suffered by consumers as a result of an innovative product or service. The bond shall expire two years after the date of the conclusion of the regulatory sandbox program period. The commissioner may accept electronic bonds from any regulatory sandbox participant;

(3) Issue any order needed to enforce any bond posted under this article, or a portion of such bond, or to distribute any bond proceeds to affected consumers;

(4) Make or cause to be made an examination of the books, accounts, and records of every regulatory sandbox participant pursuant to the provisions of this article, for the purpose of determining whether the sandbox participant is complying with the provisions. If the examination is made outside of this state, the participant shall pay the cost of the examination; and

(5) Issue any orders necessary to enforce this article, including ordering the payment of restitution, and enforce those orders in any court of competent jurisdiction;

§31A-8G-5. Additional consumer protections; disclosures.

(a) Before providing an innovative product or service to a consumer, a regulatory sandbox participant shall disclose the following to the consumer:

(1) The name and contact information of the regulatory sandbox participant;

(2) That the innovative product or service is authorized pursuant to the regulatory sandbox and, if applicable, that the regulatory sandbox participant does not have a license or other authorization to provide a product or service under state laws that regulate products or services outside the regulatory sandbox;

(3) That the innovative product or service is undergoing testing, may not function as intended, and may expose the customer to financial risk;

(4) That the provider of the innovative product or service is not immune from civil liability for any losses or damages caused by the innovative product or service;

(5) That the state does not endorse or recommend the innovative product or service;

(6) That the innovative product or service is a temporary test that may be discontinued at the end of the testing period;

(7) The expected end date of the testing period; and

(8) That a consumer may contact the Division of Financial Institutions to file a complaint regarding the innovative product or service being tested and provide the Division of Financial Institution's telephone number and website address where a complaint may be filed.

(b) The disclosures required by subsection (a) of this section shall be provided to a consumer in a clear and conspicuous form and, for an internet or application-based innovative product or service, a consumer shall acknowledge receipt of the disclosure before a transaction may be completed.

(c) The Division of Financial Institutions may investigate all consumer complaints made against the regulatory sandbox participant, pursuant to subsection (a) of this section: *Provided*, That the consumer making the complaint was directly provided the innovative product or service by the sandbox participant, and the innovative product or service was provided in the course of participation in the sandbox program.

(d) The Division of Financial Institutions may require that a regulatory sandbox participant make additional disclosures to a consumer.

§31A-8G-6. Exiting requirements; extensions.

(a) At least 30 days before the end of the 24-month regulatory sandbox testing period, a sandbox participant shall:

(1) Notify the Division of Financial Institutions that the regulatory sandbox participant will exit the regulatory sandbox program, discontinue the sandbox participant's test, and stop offering any innovative product or service in the regulatory sandbox within 60 days after the day on which the 24-month testing period ends; or

(2) Seek an extension in accordance with §31A-8G-7 of this code.

(b) Subject to subsection (c) of this section, if the Division of Financial Institutions does not receive notification as required by

subsection (a) of this section, the regulatory sandbox testing period ends at the end of the 24-month testing period and the regulatory sandbox participant shall immediately stop offering each innovative product or service being tested.

(c) If a test includes offering an innovative product or service that requires ongoing duties, such as servicing a loan, the regulatory sandbox participant shall continue to fulfill those duties or arrange for another person to fulfill those duties after the date on which the sandbox participant exits the regulatory sandbox, and not less than 30 days before the conclusion of the sandbox period, notify, in writing, any consumer of the product or service of the plan related to continuation or discontinuation of duties with respect to the product or service.

§31A-8G-7. Testing period extensions.

(a) Thirty days prior to the end of the 24-month regulatory sandbox testing period, a participant may request an extension of the regulatory sandbox testing period for the purpose of obtaining a license or other authorization required by law.

(b) The Division of Financial Institutions shall grant or deny a request for an extension in accordance with subsection (a) of this section by the end of the 24-month regulatory sandbox testing period.

(c) The Division of Financial Institutions may grant an extension in accordance with this section for not more than 12 months after the end of the regulatory sandbox testing period.

(d) A regulatory sandbox participant that obtains an extension in accordance with this section shall provide the Division of Financial Institutions with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorization, rejected applications, or issued licenses or other authorization.

§31A-8G-8. Recordkeeping and reporting requirements; participant removal.

(a) A regulatory sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an innovative product or service tested in the regulatory sandbox, and shall maintain comprehensive records for not less than five years after the conclusion of the sandbox period.

(b) If an innovative product or service fails before the end of a testing period, the regulatory sandbox participant shall notify the Division of Financial Institutions and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result of the failure.

(c) The Division of Financial Institutions will collaborate with regulatory sandbox participants admitted to the program to establish periodic and reasonable reporting requirements for a sandbox participant.

(d) The Division of Financial Institutions may request records, documents, and data from a regulatory sandbox participant, and, upon the division's request, a sandbox participant shall make such records, documents, and data available for inspection by the division.

(e) If the Division of Financial Institutions determines that a regulatory sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a state or federal criminal law, the Division of Financial Institutions may remove a sandbox participant from the regulatory sandbox and may refer suspected violations of law relating to this act to appropriate state or federal agencies for investigation, prosecution, civil penalties, and other appropriate enforcement actions.

(f) On or before December 1 of each year, the Division of Financial Institutions shall provide an annual written report to the Joint Committee on Government and Finance that provides information regarding each regulatory sandbox participant and that

provides recommendations regarding the effectiveness of the regulatory sandbox program. This report shall be made publicly available on the division's website."

With the further amendment, sponsored by Delegate Capito, being as follows:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 8G. THE WEST VIRGINIA FINTECH REGULATORY SANDBOX PROGRAM.

§31A-8G-1. The West Virginia FinTech Regulatory Sandbox Program.

This article shall be known as the West Virginia FinTech Regulatory Sandbox Act.

§31A-8G-2. Definitions.

As used in this article:

'Applicable agency' means a department or agency of the state that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate a regulatory sandbox participant.

'Applicant' means an individual or entity that is applying to participate in the regulatory sandbox program.

'Consumer' means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a regulatory sandbox participant.

'Distributed ledger' means the use of a digital database containing records of financial transactions, including blockchain technology, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record

transactions between two parties in a verifiable and permanent way.

‘Division of Financial Institutions’ and ‘division’ mean the West Virginia Division of Financial Institutions.

‘Financial product or service’ means:

(A) A financial product or financial service that requires state licensure or registration; or

(B) A financial product or financial service that includes a business model, delivery mechanism, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by the West Virginia Division of Financial Institutions under chapters 31, 31A, and 31C of this code, §32A-2-1 *et seq.* of this code, or other related provisions.

‘Innovation’ means the use or incorporation of a new or emerging technology or a new use of existing technology, including distributed ledger, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the Division of Financial Institutions to have a comparable widespread offering in the state.

‘Innovative product or service’ means a financial product or service that includes an innovation.

‘Regulatory sandbox participant’ means a person whose application to participate in the regulatory sandbox program is approved in accordance with the provisions of this article.

‘Regulatory sandbox program’ means the West Virginia FinTech Regulatory Sandbox Program created by this article, which allows a person to temporarily test an innovative product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

‘Regulatory sandbox testing period’ means a 24-month period beginning on the date an applicant is admitted to the regulatory sandbox program.

‘Test’ means to provide an innovative product or service in accordance with the provisions of this chapter.

§31A-8G-3. Regulatory Sandbox Program; administration; application requirements; fee; rulemaking.

(a) There is created in the Division of Financial Institutions the Regulatory Sandbox Program.

(b) In administering the regulatory sandbox program, the Division of Financial Institutions:

(1) Shall consult with the West Virginia Development Office relating to the economic development opportunities relating to the potential regulatory sandbox participant and may consult with any applicable agency which otherwise may have jurisdiction or authority relating to any activity proposed for the regulatory sandbox program for which the applicant is seeking to proceed without authorization or license;

(2) Shall have the authority to promulgate rules in accordance with §31A-2-4 and §29A-3-1 *et seq.* of this code for the purposes of administering the regulatory sandbox program;

(3) Shall establish a program permitting an individual or an entity to obtain limited access to the market in the state to test an innovative product or service without obtaining a license or other authorization that might otherwise be required; and

(4) May enter into cooperative, coordinating, or information-sharing agreements with or follow the best practices of the federal Consumer Financial Protection Bureau or other states that are administering similar programs as well as other state and federal agencies to carry out the mandates of this article.

(c) An applicant for the regulatory sandbox program shall provide to the Division of Financial Institutions an application in a form prescribed by the Division of Financial Institutions that:

(1) Demonstrates that the applicant is subject to the jurisdiction of the state;

(2) Demonstrates that the applicant has established a physical location in the state; where all required records, documents, and data relating to any approved testing can be made available for examination and review by the Division of Financial Institutions and any other applicable agency with jurisdiction;

(3) Demonstrates that the applicant has attempted in good faith to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia to implement the applicant's proposed test of an innovative product or service within the regulatory sandbox program: *Provided*, That the applicant shall not be excluded from participation in the regulatory sandbox program solely based on the applicant's ability to establish a partnership with a bank operating within the State of West Virginia or another financial institution licensed by the State of West Virginia;

(4) Contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the Division of Financial Institutions;

(5) Discloses any and all criminal convictions of the applicant or other participating personnel, if any, and submits to a criminal background investigation, including requiring fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a state, national or international criminal history check;

(6) Demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and

a developed plan to test, monitor, and assess the innovative product or service;

(7) Contains a description of the innovative product or service to be tested, including statements regarding all of the following:

(A) How the innovative product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox program;

(B) How the innovative product or service would benefit consumers;

(C) How the innovative product or service is different from other products or services available in the state;

(D) What risks may confront consumers that use or purchase the innovative product or service;

(E) What measures will be put into place to limit potential risks and harm to consumers and to resolve complaints during the regulatory sandbox testing period;

(F) How participating in the regulatory sandbox program would enable a successful test of the innovative product or service;

(G) A description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(H) A description of how the applicant will perform ongoing duties after the test; and

(I) How the applicant will end the test and protect consumers if the test fails;

(8) Sets forth whether the applicant has been provided any license or authorization by any state or federal agency; whether any state or federal agency has previously investigated, sanctioned, or pursued legal action against the applicant; and whether the

applicant has had licensure or authorization denied or withdrawn by any state or federal agency;

(9) Demonstrates registration with the West Virginia Secretary of State;

(10) Demonstrates that the applicant has an exit plan to limit consumer harm at the conclusion of the regulatory sandbox testing period, including a plan to notify consumers and advise them of next steps; and

(11) Provides any other information as required by the Division of Financial Institutions.

(d) The Division of Financial Institutions may collect an application fee of not more than \$1,500 from an applicant.

(e) An applicant shall file a separate application for each innovative product or service that the applicant wants to test.

(f) After an application is filed, the Division of Financial Institutions may seek additional information from the applicant as it deems necessary.

(g) Subject to subsection (h) of this section, not later than 90 days after the day on which a complete application is received by the Division of Financial Institutions, the division shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox program.

(h) The Division of Financial Institutions and an applicant may mutually agree to extend the 90-day time period described in subsection (g) of this section in order for the Division to determine whether an application is approved for entry into the regulatory sandbox program.

(i)(1) In reviewing an application under this section, the Division of Financial Institutions may consult with, and seek the approval of, any applicable agency before admitting an applicant into the regulatory sandbox program.

(2) The consultation with an applicable agency may include but is not limited to seeking information about whether:

(A) The applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox program; and

(B) Certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox program.

(j) In reviewing an application under this section, the Division of Financial Institutions shall consider whether a competitor to the applicant is or has been a regulatory sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a regulatory sandbox participant.

(k) If the Division of Financial Institutions approves admitting an applicant into the regulatory sandbox program, an applicant may become a regulatory sandbox participant.

(I)(1) The Division of Financial Institutions may deny any application submitted under this section, for any reason, at the division's discretion.

(2) If the Division of Financial Institutions denies an application submitted under this section, the division shall provide to the applicant a written description of the reasons for the denial as a regulatory sandbox participant.

§31A-8G-4. Scope; testing period; licenses; consumer protections.

(a) If the Division of Financial Institutions approves an application under §31A-8G-3 of this code, the regulatory sandbox participant has 24 months after the day on which the application was approved to test the innovative product or service described in the regulatory sandbox participant's application.

(b) An innovative product or service that is tested within the regulatory sandbox program is subject to the following:

(1) All consumers participating in the innovative product or service being tested shall be residents of the state;

(2) The Division of Financial Institutions may, on a case-by-case basis, specify the maximum number of consumers that may transact through or enter into an agreement to use the innovative product or service:

(A) For a regulatory sandbox participant testing a consumer loan, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of an individual loan that may be issued to an individual consumer and the maximum amount of aggregate loans that may be issued to an individual consumer; and

(B) For a regulatory sandbox participant testing an innovative product or service that would normally require a money transmission license pursuant to this code, the Division of Financial Institutions may, on a case-by-case basis, specify the maximum amount of a single transaction for an individual consumer and the maximum aggregate amount of transactions for an individual consumer.

(c) This section does not restrict a regulatory sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(d) A regulatory sandbox participant is deemed to possess an appropriate license under the laws of this state for the purposes of any provision of federal law requiring state licensure or authorization.

(e) Except as otherwise provided in this chapter, including subsections (f), (g), and (h), a regulatory sandbox participant that is testing an innovative product or service is not subject to state laws that regulate financial products or services.

(f) Regulatory sandbox participants and the innovative products and services that they are testing in the regulatory sandbox program are subject to all applicable consumer protection laws, including, but not limited to those contained in chapter 46A of this

code, the Collection Agency Act contained in chapter 47A of this code, and any limitations on interest rates, whether or not those interest rates would otherwise require licensure.

(g)(1) The Division of Financial Institutions may determine that additional state laws that regulate a financial product or service apply to a regulatory sandbox participant if the Division of Financial Institutions, at its sole discretion, determines that an applicant's proposed testing plan or the innovative product or service to be tested poses significant risk to consumers or to the safety and soundness of other institutions within the financial services marketplace as to warrant the imposition of other applicable state laws.

(2) The Division of Financial Institutions shall determine the applicability of certain state laws to each innovative product or service prior to approval of any application to participate in the regulatory sandbox program and shall notify the regulatory sandbox participant of the specific regulatory provisions that shall apply to the innovative product or service throughout the duration of the regulatory sandbox testing period.

(3) If at any time during the regulatory sandbox testing period, the Division of Financial Institutions determines that the imposition of certain state laws is necessary to eliminate the risk of harm to consumers or the safety and soundness of other institutions operating within the financial services marketplace, the division may require that the regulatory sandbox participant come into compliance with such state laws within a reasonable time.

(h) Notwithstanding any other provision of this chapter, a regulatory sandbox participant does not have immunity related to any criminal offense committed during the regulatory sandbox participant's participation in the regulatory sandbox program.

(i) By written notice, the Division of Financial Institutions may end a regulatory sandbox participant's participation in the regulatory sandbox program at any time and for any reason, including if the Division of Financial Institutions determines a

regulatory sandbox participant is not operating in good faith to bring an innovative product or service to market.

(j) The Division of Financial Institutions shall require a regulatory sandbox participant to post a consumer protection bond as security for potential losses suffered by consumers. The bond amount shall be determined by the commissioner in an amount not less than \$5,000 and shall be commensurate with the risk profile of the innovative product or service. The commissioner may require that a bond be increased or decreased at any time based on risk profile and shall provide the regulatory sandbox participant with 30 days prior written notice of such increase or decrease. The commissioner may use bond proceeds to offset losses suffered by consumers as a result of an innovative product or service. The bond shall expire two years after the date of the conclusion of the regulatory sandbox testing period. The commissioner may accept electronic bonds from any regulatory sandbox participant.

§31A-8G-5. Additional consumer protections; disclosures.

(a) Before providing an innovative product or service to a consumer, a regulatory sandbox participant shall disclose the following to the consumer:

(1) The name and contact information of the regulatory sandbox participant;

(2) That the innovative product or service is authorized pursuant to the regulatory sandbox program and, if applicable, that the regulatory sandbox participant does not have a license or other authorization to provide a product or service under state laws that regulate products or services outside the regulatory sandbox program;

(3) That the innovative product or service is undergoing testing, may not function as intended, and may expose the consumer to financial risk;

(4) That the provider of the innovative product or service is not immune from civil liability for any losses or damages caused by the innovative product or service;

(5) That the state does not endorse or recommend the innovative product or service;

(6) That the innovative product or service is a temporary test that may be discontinued at the conclusion of the regulatory sandbox testing period;

(7) The expected end date of the regulatory sandbox testing period; and

(8) That a consumer may contact the Division of Financial Institutions to file a complaint regarding the innovative product or service being tested and provide the Division of Financial Institution's telephone number and website address where a complaint may be filed.

(b) The disclosures required by subsection (a) of this section shall be provided to a consumer in a clear and conspicuous form and, for an internet or application-based innovative product or service, a consumer shall acknowledge receipt of the disclosure before a transaction may be completed.

(c) The Division of Financial Institutions may investigate all consumer complaints made against a regulatory sandbox participant pursuant to subsection (a) of this section: *Provided*, That the consumer making the complaint was directly provided the innovative product or service by the regulatory sandbox participant, and the innovative product or service was provided in the course of participation in the regulatory sandbox program.

(d) The Division of Financial Institutions may require that a regulatory sandbox participant make additional disclosures to a consumer.

§31A-8G-6. Exiting requirements; extensions.

(a) At least 30 days before the conclusion of the regulatory sandbox testing period, a regulatory sandbox participant shall:

(1) Notify the Division of Financial Institutions that the regulatory sandbox participant will exit the regulatory sandbox

program, discontinue the regulatory sandbox participant's test, and stop offering any innovative product or service in the regulatory sandbox program within 60 days after the day on which the regulatory sandbox testing period ends; or

(2) Seek an extension in accordance with §31A-8G-7 of this code.

(b) Subject to subsection (c) of this section, if the Division of Financial Institutions does not receive notification as required by subsection (a) of this section, the regulatory sandbox participant shall immediately stop offering each innovative product or service being tested at the conclusion of the regulatory sandbox testing period.

(c) If a test includes offering an innovative product or service that requires ongoing duties, such as servicing a loan, the regulatory sandbox participant shall continue to fulfill those duties or arrange for another person to fulfill those duties after the date on which the regulatory sandbox participant exits the regulatory sandbox program, and not less than 30 days before the conclusion of the regulatory sandbox testing period, notify, in writing, any consumer of the innovative product or service of the plan related to continuation or discontinuation of duties with respect to the innovative product or service.

§31A-8G-7. Testing period extensions.

(a) Thirty days prior to the conclusion of the regulatory sandbox testing period, a regulatory sandbox participant may request an extension of the regulatory sandbox testing period for the purpose of obtaining a license or other authorization required by law.

(b) The Division of Financial Institutions shall grant or deny a request for an extension in accordance with subsection (a) of this section by the conclusion of the regulatory sandbox testing period.

(c) The Division of Financial Institutions may grant an extension in accordance with this section for not more than 12

months after the conclusion of the regulatory sandbox testing period.

(d) A regulatory sandbox participant that obtains an extension in accordance with this section shall provide the Division of Financial Institutions with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorization, rejected applications, or issued licenses or other authorization.

§31A-8G-8. Recordkeeping and reporting requirements; participant removal.

(a) A regulatory sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an innovative product or service tested in the regulatory sandbox program, and shall maintain comprehensive records for not less than five years after the conclusion of the regulatory sandbox testing period.

(b) If an innovative product or service fails before the conclusion of a regulatory sandbox testing period, the regulatory sandbox participant shall notify the Division of Financial Institutions and report on actions taken by the regulatory sandbox participant to ensure consumers have not been harmed as a result of the failure.

(c) The Division of Financial Institutions will collaborate with a regulatory sandbox participant to establish periodic and reasonable reporting requirements for the regulatory sandbox participant.

(d) The Division of Financial Institutions may request records, documents, and data from a regulatory sandbox participant, and, upon the division's request, a regulatory sandbox participant shall make such records, documents, and data available for inspection by the division.

(e) If the Division of Financial Institutions determines that a regulatory sandbox participant has engaged in, is engaging in, or is

about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a state or federal criminal law, the Division of Financial Institutions may remove a regulatory sandbox participant from the regulatory sandbox program and may refer suspected violations of law relating to this act to appropriate state or federal agencies for investigation, prosecution, civil penalties, and other appropriate enforcement actions.

(f) On or before December 1 of each year, the Division of Financial Institutions shall provide an annual written report to the Joint Committee on Government and Finance that provides information regarding each regulatory sandbox participant and that provides recommendations regarding the effectiveness of the regulatory sandbox program. This report shall be made publicly available on the division's website."

And,

The further title amendment sponsored by Delegate Shott amending the title of the bill to read as follows:

H. B. 4621 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, and §31A-8G-8, all relating to creating the West Virginia FinTech Regulatory Sandbox Program; defining terms; providing that the program shall be administered by the West Virginia Division of Financial Institutions, establishing requirements for participants to temporarily test innovative financial products or services on a limited basis without otherwise being licensed under the laws of the state; establishing scope of the ability to operate approved financial products or services without a license; providing consumer protections; establishing time limitations on the ability to test approved financial products or services without a license; providing reporting requirements; providing for rulemaking; and directing the West Virginia Division of Financial Institutions to provide annual reports to the Legislature."

The bill, as amended by the Senate and further amended by the House, was put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 552**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4621) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4633, Expanding county commissions' ability to dispose of county or district property.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section three, line seventeen, by striking out the words "nonprofit community center organization" and inserting in lieu thereof the words "community center organization already in existence on the effective date of the amendments to this section made during the 2020 Regular Session of the Legislature".

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4633 - "A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding county commissions' ability to dispose of county or district property; and adding the ability of county commissions to dispose of the property to community center organization in existence on effective date of amendment to this section of said

code or nonprofit senior center organization without conducting a public sale.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 553**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Cadle, Cowles, Foster, J. Jeffries, McGeehan and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4633) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4655, Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-8. Standards for emergency medical services personnel.

(a) Every ambulance operated by an emergency medical services agency shall carry at least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first

aid and the person in the patient compartment shall be certified as an emergency medical technician-basic at a minimum except that in the case of a specialized multi-patient medical transport, only one staff person is required and that person shall be certified, at a minimum, at the level of an emergency medical technician-basic. The requirements of this subsection will remain in effect until revised by the legislative rule to be promulgated pursuant to §16-4C-8(b) of this code.

(b) On or before May 28, 2010, the commissioner shall submit a proposed legislative rule to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2010, shall file the proposed legislative rule with the Office of the Secretary of State, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to establish certification standards for emergency medical vehicle operators and to revise the requirements for emergency medical services personnel.

(c) As of the effective date of the legislative rule to be promulgated pursuant to §16-4C-8(b), emergency medical services personnel who operate ambulances shall meet the requirements set forth in the legislative rule.

(d) Any person desiring emergency medical services personnel certification shall apply to the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of the application, the commissioner shall determine whether the applicant meets the certification requirements and may examine the applicant if necessary to make that determination.

(e) The applicant shall submit to a national criminal background check, the requirement of which is declared to be not against public policy.

(1) The applicant shall meet all requirements necessary to accomplish the national criminal background check, including submitting fingerprints, and authorizing the West Virginia Office of Emergency Medical Services, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted

and produced for the purpose of screening the applicant for certification.

(2) The results of the national criminal background check may not be released to or by a private entity.

(3) The applicant shall submit a fee of \$75 for initial certification and a fee of \$50 for recertification. The fees set forth in this subsection remain in effect until modified by legislative rule.

(f) An application for an original, renewal or temporary emergency medical service personnel certificate or emergency medical services agency license, shall be acted upon by the commissioner and the certificate or license delivered or mailed, or a copy of any order of the commissioner denying any such application delivered or mailed to the applicant, within 15 days after the date upon which the complete application, including test scores and background checks, if applicable, was received by the commissioner.

(g) Any person may report to the commissioner or the Director of the Office of Emergency Medical Services information he or she may have that appears to show that a person certified by the commissioner may have violated the provisions of this article or legislative rules promulgated pursuant to this article. A person who is certified by the commissioner, who knows of or observes another person certified by the commissioner violating the provisions of this article or legislative rules promulgated pursuant to this article, has a duty to report the violation to the commissioner or director. Any person who reports or provides information in good faith is immune from civil liability.

(h) The commissioner may issue a temporary emergency medical services personnel certificate to an applicant, with or without examination of the applicant, when he or she finds that issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall be valid initially for a period not exceeding 120 days and may not be renewed unless the commissioner finds the renewal to be in the public interest.

(i) For purposes of certification or recertification of emergency medical services personnel, the commissioner shall recognize and give full credit for all continuing education credits that have been approved or recognized by any state or nationally recognized accrediting body.

(j) Notwithstanding any other provision of code or rule, the commissioner recognizes that military personnel, National Guardsmen, members of the United States Coast Guard, and members of the Reserve Components of the Armed Services have advanced skills and training necessary to meet the requirements of this section to be certified as an emergency medical technician-paramedic upon application. Any person may seek automatic certification as an emergency medical technician-paramedic in this state if he or she has:

(1) Been honorably discharged from any branch of the United States military;

(2) Received paramedic or similar life-saving medical training in positions including, but not limited to, United States Army Combat Medic, United States Air Force Pararescue, United States Air Force Combat Rescue Officer, United States Navy Hospital Corpsman – Advanced Technical Field, United States Coast Guard Health Services Technician, National Guard Health Care Specialist, the Reserve Components of any of the preceding positions, or can otherwise demonstrate that his or her occupation in the military received substantially similar training to be certified as required by the commissioner; and

(3) Received an honorable discharge within two years of the application date.

(k) Notwithstanding any other provision of code or rule, the commissioner recognizes that military personnel, National Guardsmen, members of the United States Coast Guard, and members of the Reserve Components of the Armed Services have advanced skills and training necessary to meet the requirements of this section to be certified as an emergency medical technician-basic upon application. Any person may seek automatic

certification as an emergency medical technician-basic in this state if he or she has:

(1) Been honorably discharged from any branch in the United States military;

(2) Received emergency medical technician training or similar life-saving medical training in positions including, but not limited to, United States Army Infantryman, United States Air Force Security Forces, United States Navy Hospital Corpsman, United States Coast Guard Aviation Survival Technician, United States Marines Infantryman, National Guard Infantryman, and Reserve Components of any of the preceding positions, or can otherwise demonstrate that his or her occupation in the military received substantially similar training to be certified as required by the commissioner; and

(3) Received an honorable discharge within two years of the application date.

(1) Upon reviewing an application for certification pursuant to subsection (j) and subsection (k) of this section, the commissioner shall issue an appropriate certificate to the individual applying for certification as an emergency medical technician-paramedic or emergency medical technician-basic without further examination or education. If an individual certified pursuant to this section permits his or her certification to expire, the commissioner may require examination as a condition of recertification.”

And,

By amending the title of the bill to read as follows:

H. B. 4655 - “A Bill to amend and reenact §16-4C-8 of the Code of West Virginia, 1931, as amended, relating to automatic certification as an emergency medical technician-paramedic or emergency medical technician-basic upon application; providing that an applicant may have previously served in any branch of the United States military, National Guard, Coast Guard, or the Reserve Components of the Armed Services; providing that an applicant must have been honorably discharged within two years

of application; providing for similar military job titles that bear a rational nexus to the training and education required by the commissioner to be certified as a paramedic or emergency medical technician; providing that the commissioner must issue a license upon review of the application; and providing that if an individual permits a certification to expire the commissioner may require examination as a condition of recertification.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 554**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4655) passed.

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

A message from the Senate, by

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

H. B. 4691, Relating to employment in areas of critical need in public education.

A message from the Senate, by

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

H. B. 4714, Increasing the monetary threshold for requiring nonprofit organizations to register as a charitable organization.

A message from the Senate, by

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

Com. Sub. for H. B. 4780, Permitting county boards to offer elective courses of instruction on the Bible.

A message from the Senate, by

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

H. B. 4859, Accounting for state funds distributed to volunteer and part-volunteer fire companies and departments.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had adopted, with amendment, a resolution of the House of Delegates, as follows:

Com. Sub. for H. C. R. 33, U.S.A.F. Lt Col Frederick Donald Belknap Memorial Bridge.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, by striking out everything after the title and inserting in lieu thereof the following:

“Whereas, Frederick Donald Belknap was born July 31, 1929, on a farm on Little Tenmile Creek, two miles west of Wallace, in Harrison County, West Virginia. His parents were Dewey and Thelma Belknap. He graduated from Wallace High School in 1948 and attended West Virginia University from 1948-1952, where he worked as a waiter in Terrace Hall, a women’s residence hall, to earn his meals; and

Whereas, Upon graduation from West Virginia University with a bachelor’s degree in education, Frederick Donald Belknap was commissioned a second lieutenant in the United States Air Force, having participated in reserve officer training while at the university; and

Whereas, Frederick Donald Belknap married Hester 'Hedy' Ogden, also of Wallace, West Virginia, on September 10, 1951. The couple had one child, Dianne Lynne Belknap Lunsford; and

Whereas, Frederick Donald Belknap enjoyed a 25-year-long career in the Air Force, being trained as a navigator, graduating first in his class, later rated Master Navigator, and rising to the rank of lieutenant colonel; and

Whereas, During his career USAF Lt. Col. Belknap flew missions worldwide in C124 'GlobeMaster' aircraft, participating in troop carrier and cargo missions to Germany and the rest of Europe; and

Whereas, In 1957, Lt. Col. Belknap was involved in airlifting U.S. Marines to Lebanon on orders of President Dwight D. Eisenhower, and carried out other missions in Greece, Egypt, Jordan, Libya, and Morocco; and

Whereas, In 1959, Colonel Belknap was trained as a missile launch officer and served as a Nuclear Missile Launch Officer in Germany from 1961 to 1964. Following various assignments stateside, Colonel Belknap was assigned to Saigon, Vietnam, in 1970 where he served as psychological warfare officer with the Joint United States Public Affairs Office until June of 1971; and

Whereas, Upon returning from Vietnam, Colonel Belknap was assigned to Langley Air Force Base in Hampton, Virginia, from where he flew missions in Southeast Asia. At the time of his retirement in 1977, Colonel Belknap had flown all over the world for more than 6,000 hours (including more than 88 hours of combat missions) in C124, C119, and C130 aircraft, and had been awarded the Bronze Star; and

Whereas, After his Air Force career, Colonel Belknap and his wife returned to Harrison County, where he served as personnel coordinator for District 4 of the West Virginia Department of Highways from 1978 to 1989. He was a member of the West Milford Lions Club and VFW and served as a leader for his grandson's Boy Scout troop and was inducted into the Order of the Arrow. He enjoyed hunting, fishing, gardening, camping,

gathering with old friends from all over, and attending Mountaineer football games; and

Whereas, USAF Lt. Col. Belknap died on February 23, 2017, at the age of 87, having lived a life of service to his country, his community, and his family; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-79-119.96 (17A318), locally known as Lodgeville I-79 Bridge, carrying IS 79 over CR 50/16, 50/25 and railroad in Harrison County, the ‘USAF Lt. Col. Frederick Donald Belknap Memorial Bridge’; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge as the ‘USAF Lt. Col. Frederick Donald Belknap Memorial Bridge’; and, be it

Further Resolved, That the Clerk forward a copy of this resolution to the Commissioner of the Division of Highways.”

And,

By amending the title of the resolution to read as follows:

Com. Sub. for H. C. R. 33 - “Requesting the Division of Highways to name bridge number 17-79-119.96 (17A318), locally known as Lodgeville I-79 Bridge, carrying Interstate 79 over CR 50/16, 50/25 and railroad in Harrison County, the ‘USAF Lt. Col. Frederick Donald Belknap Memorial Bridge’.”

The resolution (Com. Sub. for H. C. R. 33) was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 125, Prohibiting victim from being subjected to certain physical examinations for sexual offenses.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 651, Relating to definition of "mortgage loan originator".

A message from the Senate, by

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

S. B. 854 - "A Bill expiring funds to the balance of the Department of Arts, Culture, and History, Division of Culture and History, Public Records and Preservation Revenue Account Fund, fund 3542, fiscal year 2020, organization 0432, in the amount of \$105,000, all from the Auditor's Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2020, organization 1200, by supplementing and amending chapter 31, Acts of the Legislature, 2019, known as the Budget Bill."

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 854) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. B. 855 - “A Bill expiring funds to the balance of the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund 8402, fiscal year 2020, organization 0804, in the amount of \$750,000, all from the Auditor’s Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2020, organization 1200, by supplementing and amending chapter 31, Acts of the Legislature, 2019, known as the Budget Bill.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 855) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. B. 856 - “A Bill expiring funds to the balance of the Department of Commerce, West Virginia Development Office, Marketing and Communications Operating Fund, fund 3002, fiscal year 2020, organization 0307, in the amount of \$222,563, from the Department of Commerce, West Virginia Development Office, Synthetic Fuel – Producing County Fund, fund 3165, fiscal year 2020, organization 0307, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.”

At the respective requests of Delegate Summers, and by unanimous consent, the bill (S. B. 856) was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. C. R. 6 - "Requesting the Division of Highways name bridge number 17-9-0.35 (17A053), locally known as Wilsonburg T-beam Bridge, carrying County Route 9 over Limestone Run in Harrison County, the 'Walter E. Swiger, Jr., Memorial Bridge'."

Whereas, Walter E. Swiger, Jr., was a lifelong resident of Harrison County, a graduate of Victory High School and West Virginia Business College; and

Whereas, Walter E. Swiger, Jr., retired after 43 years in petroleum marketing, having operated his own business; and

Whereas, Walter E. Swiger, Jr., was appointed to the Harrison County Solid Waste Authority in 1990 by the Harrison County Commission and served as chairman of the authority; and

Whereas, Walter E. Swiger, Jr., was chosen as the Volunteer of the Year by the Association of West Virginia Solid Waste Authority during their 12th annual conference in the fall of 2000; and

Whereas, Walter E. Swiger, Jr., was an outstanding community leader with many years of service in various organizations, serving the local emergency planning committee, Clarksburg Lions Club, Central West Virginia Community Action Association, and others; and

Whereas, As chairman, Walter E. Swiger, Jr., worked to help develop a recycling ordinance for the county, established a recycling hotline, and was recognized in several issues of the Solid

Waste Reporter for his leadership in “one of the top integrated waste management programs in West Virginia”; and

Whereas, Walter E. Swiger, Jr., worked with county education leaders through the solid waste authorities’ efforts as Partner in Education with 10 county schools; and

Whereas, Walter E. Swiger, Jr., passed away on November 7, 2015; and

Whereas, It is fitting that an enduring memorial be established to commemorate Walter E. Swiger, Jr., and his contributions to his community and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-9-0.35 (17A053), locally known as Wilsonburg T-beam Bridge, carrying County Route 9 over Limestone Run in Harrison County, the “Walter E. Swiger, Jr., Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Walter E. Swiger, Jr., Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

Com. Sub. for S. C. R. 23 - “Requesting the Joint Committee on Government and Finance study the West Virginia State Police’s increased duties and responsibilities, and determine the number of full-time equivalent positions that are needed to meet the statutory mission of statewide enforcement of criminal and traffic laws, with

emphasis on providing the necessary enforcement and citizen protection from criminal depredation throughout the state's public streets, roads, and highways.”

Whereas, The West Virginia State Police has been protecting the citizens of this state since 1919, investigating crimes and traffic accidents, providing crowd control, directing traffic, and apprehending sexual predators and others who terrorize our neighborhoods, to ensure that we live in peace; and

Whereas, The West Virginia State Police has seen a decrease in manpower since 2001, when more than 700 troopers protected West Virginia, to today, when only 615 troopers are protecting the state; and

Whereas, The West Virginia State Police's duties and responsibilities, including tracking and registering sex offenders, have continued to grow during that same time period. In 2001, the sex offender registry had 1,468 sex offenders within the state, and this has now grown to over 5,639 offenders; and

Whereas, In 2017, there were 833 drug overdose deaths reported in West Virginia involving opioids, making West Virginia's age-adjusted rate of drug overdose deaths involving opioids the highest in the country; and

Whereas, The most recent figures reflect that the West Virginia State Police answered 159,552 calls for service for the citizens of West Virginia in a one-year period; and

Whereas, The Legislature finds that it should take an active role in studying, formulating, and implementing a plan to provide the necessary manpower, equipment, resources, adequate training, policies, and procedures needed for the West Virginia State Police to meet its statutory mission of statewide law enforcement, which will require cooperation with the corresponding agencies or organizations to ensure the accuracy of the information, as well as the feasibility of a concrete proposal; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the West Virginia State Police's increased duties and responsibilities, and determine the number of full-time equivalent positions that are needed to meet the statutory mission of statewide enforcement of criminal and traffic laws, with emphasis on providing the necessary enforcement and citizen protection from criminal depredation throughout the state's public streets, roads, and highways; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, by the first day of the 2021 Regular session, on its findings, conclusions, and recommendations, together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Third Reading

S. B. 42, Permitting faith-based electives in classroom drug prevention programs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 555**), and there were—yeas 83, nays 15, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, S. Brown, Diserio, Doyle, Fleischauer, Fluharty, Hansen, Hornbuckle, Pushkin, Pyles, Robinson, Rowe, C. Thompson, Walker and Williams.

Absent and Not Voting: Estep-Burton and Lavender-Bowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 42) passed.

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

S. B. 42 - “A Bill to amend and reenact §18-2-7b of the Code of West Virginia, 1931, as amended, relating to permitting the county boards of education to include faith-based and non-faith-based electives for drug awareness in classrooms and requiring the state board of education to promulgate a rule.”

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

Com. Sub. for S. B. 175, Requiring certain agencies maintain website which contains specific information; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 556**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Boggs, Cowles, Maynard, Paynter, Waxman and Wilson.

Absent and Not Voting: Estep-Burton and Lavender-Bowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 175) passed.

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

Com. Sub. for S. B. 175 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-7; to amend and reenact §7-1-3rr of said code; to amend said code by adding thereto a new article, designated §8-39-1, and by amending said code by adding thereto two new sections, designated §17A-2-26 and §17A-2-27, all relating to governmental entities distribution of information; requiring executive branch

agencies to maintain websites that contain specific information; requiring county commissions to maintain websites with specific information; requiring county commissions to provide certain information to the Secretary of State; allowing municipalities to maintain websites with specific information available to the public at no charge; providing for exceptions to disclosing certain information in defined circumstances; requiring information to be updated; requiring updated information to be provided to the Office of Technology; requiring the Division of Motor Vehicles to establish and maintain an enrollment list of persons who have communication disabilities; authorizing the Division of Motor Vehicles to promulgate rules; exempting Division of Motor Vehicles enrollment list from the freedom of information act; providing for submission of certain information to the Division of Motor Vehicles; and authorizing the Division of Motor Vehicles to provide enrollment list information to law enforcement officers through automated data system.”

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

Com. Sub. for S. B. 230, Requiring State Board of Education provide routine education in suicide prevention; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 557**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Estep-Burton and Lavender-Bowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 230) passed.

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

Com. Sub. for S. B. 230 – “A Bill to amend and reenact §18-2-40 of the Code of West Virginia, 1931, as amended, relating to suicide prevention awareness training and dissemination of information; providing findings; requiring State Board of Education to provide routine education in suicide prevention under guidelines established by board; requiring dissemination of information; and naming provisions of section ‘Jamie’s Law’.”

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

On this question, the yeas and nays were taken (**Roll No. 558**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Estep-Burton.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 230) takes effect from its passage.

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

Com. Sub. for S. B. 261, Creating criminal penalties for introducing ransomware into computer with intent to extort; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 559**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Estep-Burton and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 261) passed.

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

Com. Sub. for S. B. 269, Establishing advisory council on rare diseases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 560**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Estep-Burton, Hill and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 269) passed.

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

Com. Sub. for S. B. 269 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, and §16-5AA-6, all relating to establishing an advisory council on rare diseases; creating the advisory council; providing for its composition; setting terms of members; defining terms; defining duties, subject to the availability of resources; defining powers of the advisory council; setting out particular discretionary duties of the Secretary of the Department of Health and Human Resources; terminating the council; and establishing a special revenue account.”

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

Com. Sub. for S. B. 288, Relating to family planning and child spacing; on third reading, coming up in regular order, was read a third time.

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

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 561**), and there were—yeas 78, nays 18, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Fast, D. Jeffries, Jennings, D. Kelly, P. Martin, McGeehan, Paynter, Porterfield, Sypolt, Toney, Wilson and Worrell.

Absent and Not Voting: Estep-Burton, Graves, Hill and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 288) passed.

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

Com. Sub. for S. B. 288 - “A Bill to amend and reenact §16-2B-1 of the Code of West Virginia, 1931, as amended, relating to family planning; extending family planning resources provided by Bureau for Public Health to other entities; providing that Bureau for Medical Services shall not require multiple office visits for women who select long-acting reversible contraceptive methods unless medically necessary; requiring Bureau for Medical Services to provide payments; authorizing Bureau for Public Health to make long-acting reversible contraceptive products available in practitioner offices without upfront practitioner costs; requiring Bureau for Public Health to develop statewide plan; providing requirements for plan; and requiring an annual report by Department of Health and Human Resources.”

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

Com. Sub. for S. B. 303, Enacting Students' Right to Know Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 562**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Estep-Burton, Graves and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 303) passed.

Delegate Summers moved that the bill take effect January 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 563**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Estep-Burton, Foster, Graves, Hill and Little.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 303) takes effect January 1, 2021.

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

Com. Sub. for S. B. 308, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 564**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Criss, Estep-Burton, Graves, Hill and Little.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 308) passed.

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

Com. Sub. for S. B. 312, Relating to provisional licensure of social workers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 565**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Pushkin and Rowe.

Absent and Not Voting: Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 312) passed.

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

Com. Sub. for S. B. 491, Relating to Seed Certification Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 566**), and there were—yeas 85, nays 1, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: Pyles.

Absent and Not Voting: Anderson, Angelucci, Capito, Hansen, Hill, Hornbuckle, J. Jeffries, J. Kelly, Mandt, Paynter, Rohrbach, Skaff, Westfall and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 491) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 510, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties; on third reading, coming up in regular order, was read a third time.

Delegate Porterfield requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 567**), and there were—yeas 83, nays 17, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Cadle, Fast, Foster, Hanna, D. Jeffries, Kump, McGeehan, Paynter, Phillips, Porterfield, Summers, Sypolt, Waxman, Wilson and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 510) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 510 - “A Bill to amend and reenact §31-18E-9 of the Code of West Virginia, 1931, as amended, relating to the right of first refusal which land reuse agencies and municipal land banks have on tax-delinquent properties; expanding the circumstances when the right of first refusal may be used; clarifying provisions related to the right of first refusal; authorizing land reuse agencies and municipal land banks to reject adjacent property owner’s request to purchase property in certain circumstances; providing a sunset date; and requiring the submission of a report.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 530, Relating to taxation of aircraft; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 568**), and there were—yeas 64, nays 36, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Bates, Boggs, N. Brown, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hicks, Higginbotham, Hornbuckle, Lavender-Bowe, Lovejoy, Miller, Pethtel, Pushkin, Robinson, Rodighiero, Rohrbach, Rowe, Sponaule, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Walker, Williams, Worrell and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 530) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 530 - “A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to taxation of the sale of certain aircraft; exempting from consumer sales and service tax the sale of aircraft sold in this state and

registered in another state and removed from this state within 60 days; and providing conditions of exemption.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 569**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Boggs, Cadle, Campbell, Evans, Fluharty, Higginbotham, Hornbuckle, Lavender-Bowe, Lovejoy, Paynter, Pethtel, Rodighiero, C. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: S. Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 530) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 570**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: S. Brown.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) passed.

On motion of Delegate Hill, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 575 - “A Bill to amend and reenact §49-4-201 and §49-4-202 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §49-4-206, all relating to safe-surrender sites; allowing the governing entity of a local fire department to designate the premises of its fire department as a safe-surrender site; providing the criteria of the child who may be accepted from an parent or individual who has lawful custody of the child; setting forth requirements upon the fire department upon taking possession of a child; and establishing criteria for the fire department as a safe-surrender site.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 641, Allowing WVCHIP flexibility in rate setting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 571**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Fast and Porterfield.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 641) passed.

On motion of Delegate Hill, the title of the bill was amended to read as follows:

S. B. 641 - “A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended, relating to the children’s health insurance program; removing how reimbursements rates are calculated; and making other technical changes.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 647, Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 572**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 647) passed.

On motion of Delegate Hill, the title of the bill was amended to read as follows:

S. B. 647 - "A Bill to amend and reenact §16-30C-6 of the Code of West Virginia, 1931, as amended, relating to permitting physician assistants and advanced practice registered nurses to issue do-not-resuscitate orders."

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 573**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 654) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 689, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 574**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 689) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 691, Limiting programs adopted by State Board of Education; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 575**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kump and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 691) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 692, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 576**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: S. Brown, Rodighiero and R. Thompson.

Absent and Not Voting: Boggs and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 692) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 692 - “A Bill to amend and reenact §62-3-8 of the Code of West Virginia, 1931, as amended, relating to clarifying that persons charged with a felony offense or offenses are entitled to a separate trial as to their guilt or innocence upon moving therefor; clarifying that the statutory right to a separate trial preempts any provisions of law or judicial rule to the contrary; and adding a proviso that the court may deny the motion for separate trials if the court finds that requiring victim appearance at multiple trials will cause a victim of violence or sexual assault undue mental or emotional distress.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 707, Relating to nursing career pathways; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 577**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Boggs, S. Brown, Diserio, Fluharty and Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 707) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 707 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-11a, relating to making a nursing career pathway available to students statewide; setting forth legislative findings; requiring that a nursing career pathway workgroup be convened; charging the workgroup with developing a career pathway to address the unmet need for nursing assistants, licensed practical nurses, registered nurses, and registered nurses with a bachelor’s degree in nursing; requiring the nursing career pathway to be made available to students statewide; requiring report to the Legislative Oversight Commission on Education Accountability, as requested, but at least annually, on the progress in implementing the career pathway; and requiring consideration of certain specified ideas in establishing the pathway.”

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 578**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Boggs, N. Brown, S. Brown, Diserio, Fluharty and Hicks.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 707) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 729, Relating to awards and disability under Deputy Sheriff Retirement Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 579**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Angelucci, Barrett, Boggs, N. Brown, S. Brown, Diserio, Fluharty, Hicks and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 729) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 746, Providing contracted managed care companies access to uniform maternal screening tool; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 580**), and there were—yeas 88, nays 1, absent and not voting 11, with the nays and absent and not voting being as follows:

Nays: Staggers.

Absent and Not Voting: Angelucci, Boggs, N. Brown, S. Brown, Diserio, Fluharty, Graves, Hicks, J. Jeffries, Williams and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 746) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 749, Requiring Fatality and Mortality Review Team share data with CDC; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 581**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, S. Brown, Fluharty, Graves, Hicks, J. Jeffries, Williams and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 749) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 760, Allowing state college or university apply to HEPC for designation as administratively exempt school; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 582**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Byrd, Campbell, Hanna, Lavender-Bowe, Pushkin, Pyles, Robinson, Rowe and Walker.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 760) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 767, Relating to licensure of hospitals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 583**), and there were—yeas 70, nays 30, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, S. Brown, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, R. Thompson, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 767) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

At 1:01 p.m., the House of Delegates recessed until 2:00 p.m.

* * * * *

Afternoon Session

* * * * *

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 770, Revising requirements for post-doctoral training; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 584**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Hardy, D. Kelly, McGeehan, Pushkin, Skaff and Swartzmiller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 770) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 793, Relating to B&O taxes imposed on certain coal-fired electric generating units; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 585**), and there were—yeas 78, nays 21, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Bates, S. Brown, Byrd, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Lavender-Bowe, Lovejoy, Maynard, Pushkin, Pyles, Rowe, Staggers, Walker and Williams.

Absent and Not Voting: McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 793) passed.

Pursuant to House Rule 58, Delegate Espinosa, having voted on the prevailing side on the vote regarding **Com. Sub. for S. B. 793**, moved that the vote on passage be reconsidered.

The question on the motion to reconsider the vote by which the House of Delegates passed Com. Sub. for S. B. 793 was put and prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 586**), and there were—yeas 80, nays 17, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, S. Brown, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Lavender-Bowe, Pushkin, Pyles, Rowe, Staggers, Walker and Williams.

Absent and Not Voting: N. Brown, Dean and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 793) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 830, Eliminating special merit-based employment system for health care professionals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 587**), and there were—yeas 79, nays 18, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Doyle, Ellington, Evans, Fast, Fleischauer, Fluharty, Hamrick, Hanna, Hansen, Higginbotham, Jennings, J. Kelly, Porterfield, Pyles, Storch, Walker, Wilson and Zukoff.

Absent and Not Voting: N. Brown, Dean and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 830) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 838, Directing state police establish referral program for substance abuse treatment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 588**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Dean and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 838) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 838 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-55, relating to directing the State Police, in collaboration with the Office of Drug Control Policy of the Department of Health and Human Resources, to establish a referral program for substance abuse treatment; limiting certain persons from the category of those voluntarily seeking assistance; exempting persons seeking treatment from arrest and prosecution; directing the destruction of controlled substances received from persons seeking treatment; requiring referrals to treatment of persons seeking same; specifying persons who are ineligible for referral; and immunizing the State Police and its employees civilly for making referrals and exempting records of program from freedom of information disclosure.”

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 589**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Dean and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 838) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 839, Creating State Advisory Council on Postsecondary Attainment Goals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 590**), and there were—yeas 97, nays none,

absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Dean and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 839) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 846, Requiring hospital publish notification prior to facility closure regarding patient medical records; on third reading, coming up in regular order, was read a third time.

Delegate Skaff requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 591**), and there were—yeas 89, nays 9, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bartlett, Capito, Foster, Hardy, Higginbotham, Kessinger, McGeehan, Paynter and Steele.

Absent and Not Voting: N. Brown and Dean.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 846) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 592**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Capito, Foster, McGeehan, Paynter and Steele.

Absent and Not Voting: N. Brown, Byrd and Dean.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 846) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 848, Clarifying persons charged with DUI may not participate in Military Service Members Court; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 593**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Byrd.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 848) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 851, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 594**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Byrd and Nelson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 851) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 851 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9-7, relating to requiring the Governor’s Committee on Crime, Delinquency, and Correction to propose a legislative rule in coordination with law enforcement, certain medical boards, and certain representative persons; developing policies and protocols for law enforcement and medical professionals to create treatment and abstinence-based recovery referral programs for persons suffering from substance use disorder; setting forth requirements for policies and protocols; providing that existing criminal charges not affected; providing civil immunity for law-enforcement officers and medical professionals; and requiring proposal of legislative and emergency rules.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

S. B. 51, Specifying forms of grandparent visitation; on second reading, coming up in regular order, was read a second time and ordered to third reading,

Com. Sub. for S. B. 120, Establishing priorities for expenditures for plugging abandoned gas or oil wells; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 180, Relating to Second Chance Driver’s License Program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page four, after line twenty-five, by inserting a new section, to read as follows:

“§17B-7-11. Sunset Provision.

The Second Chance Driver’s License Program established under §17B-7-1, et seq., of this code, shall cease to have effect on June 30, 2022, unless reauthorized by the West Virginia Legislature.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 193, Setting forth timeframes for continuing purchases of commodities and services over \$1 million; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section ten, line forty-two, following the word “Division”, by striking out the remainder of the subdivision.

The bill was then ordered to third reading.

Com. Sub. for S. B. 195, Updating powers of personal representatives of deceased person’s estate; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 213, Relating to administration of trusts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 275, Creating Intermediate Court of Appeals; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 3. ELECTIONS.

ARTICLE 10. FILLING VACANCIES.

§3-10-3. Vacancies in offices of state officials, justices, judges, and magistrates.

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, or in any office created or made elective to be filled by the voters of the entire state, is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by §3-10-1 of this code. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint, within five days thereafter, a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred: *Provided*, That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3(c), §3-10-3(d), and §3-10-3(e) of this code.

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment and, if the unexpired term be for a period of more than two years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of this code. If an election is required under §3-10-3(d) of this code, the Governor, circuit court, or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by §3-10-1 of this code.

(c) Any vacancy in the office of magistrate is appointed according to the provisions of §50-1-6 of this code, and, if the unexpired term be for a period of more than two years, by a

subsequent election to fill the remainder of the term, as required by §3-10-3(d) of this code.

(d) (1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of the circuit court, judge of a family court, or magistrate occurs after the 84th day before a general election, and the affected term of office ends on December 31 following the succeeding general election two years later, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election, and if the unexpired term be for a period of greater than two years, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than 84 days before the general election, and if the unexpired term be for a period of greater than two years, the vacancy shall be filled by election in a nonpartisan judicial election held concurrently with the general election, and the appointment shall continue until a successor is elected and certified.

(e) When an election to fill a vacancy is required to be held at the general election, according to the provisions of §3-10-3(d) of this code, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, judge of the family court, or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than 77 days before the general election.

§3-10-3a. Judicial Vacancy Advisory Commission.

(a) The Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial vacancies. The commission shall meet

and submit a list of no more than five nor less than two of the most qualified persons to the Governor within 90 days of the occurrence of a vacancy, or the formal announcement of the justice or judge by letter to the Governor of an upcoming resignation or retirement that will result in the occurrence of a vacancy, in the office of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court. The Governor shall make the appointment to fill the vacancy, as required by this article, within 30 days following the receipt of the list of qualified candidates or within 30 days following the vacancy, whichever occurs later.

(b) The commission shall consist of eight appointed members appointed by the Governor for six-year terms, including four public members and four attorney members. The Governor shall appoint attorney members from a list of nominees provided by the Board of Governors of the West Virginia State Bar. The Board of Governors of the West Virginia State Bar shall nominate no more than 20 nor less than 10 of the most qualified attorneys for appointment to the commission whenever there is a vacancy in the membership of the commission reserved for attorney members. The commission shall choose one of its appointed members to serve as chair for a three-year term. No more than four appointed members of the commission shall belong to the same political party. All members of the commission shall be citizens of this state. Public members of the commission may not be licensed to practice law in West Virginia or any other jurisdiction.

(c) (1) No more than two appointed members of the commission may be residents of the same state senatorial district, as provided in §1-2-1 of this code, at the time of appointment: *Provided*, That the members appointed to, and serving on, the commission prior to the enactment of this subdivision are not disqualified from service for the remainder of the member's term based on the residency requirements of this subdivision.

(2) No more than three appointed members of the commission may be residents of the same congressional district: *Provided*, That, if the number of congressional districts in the state is reduced to two, then no more than four appointed members of the

commission may be residents of the same congressional district: *Provided, however,* That the members appointed to, and serving on, the commission prior to the date on which the number of congressional districts in the state is reduced to two are not disqualified from service for the remainder of the member's term based on the residency requirements of this subdivision.

(d) The Governor, or his or her designee, the President of the West Virginia State Bar, and the Dean of the West Virginia University College of Law shall serve as ex officio members of the commission.

(e) Members of the commission shall serve without compensation, except that commission members are entitled to reimbursement of travel and other necessary expenses actually incurred while engaged in official commission activities in accordance with the guidelines of the Travel Management Office of the Department of Administration, or its successor entity. The Governor's Office shall cooperate with the commission to ensure that all resources necessary to carrying out the official duties of the commission are provided, including staff assistance, equipment, and materials.

(f) The commission shall adopt written policies that formalize and standardize all operating procedures and ethical practices of its members, including, but not limited to, procedures for training commission members, publishing notice of judicial vacancies, recruiting qualified individuals for consideration by the commission, receiving applications from qualified individuals, notifying the public of judicial vacancies, notifying state or local groups and organizations of judicial vacancies, and soliciting public comment on judicial vacancies. The written policies of the commission are not subject to the provisions of chapter 29A of this code but shall be filed with the Secretary of State.

(g) A majority of the commission plus one shall constitute a quorum to do business.

(h) All organizational meetings of the commission shall be open to the public and subject to the requirements of §6-9A-1 *et*

seq. of this code. An ‘organizational meeting’ means an initial meeting to discuss the commission’s procedures and requirements for a judicial vacancy. The commission shall hold at least one organizational meeting upon the occurrence of a judicial vacancy. All other meetings of the commission are exempt from §6-9A-1 *et seq.* of this code.

(i) The commission shall make available to the public copies of any applications and any letters of recommendation written on behalf of any applicants. All other documents or materials created or received by the commission shall be confidential and exempt from the provisions of chapter 29B of this code, except for the list of the most qualified persons or accompanying memoranda submitted to the Governor in accordance with the provisions of subsection (j) of this section, which shall be available for public inspection, and the written policies required to be filed with the Secretary of State in accordance with subsection (f) of this section.

(j) The commission shall submit its list of the most qualified persons to the Governor in alphabetical order. A memorandum may accompany the list of the most qualified persons and state facts concerning each of the persons listed. The commission shall make copies of any list of the most qualified persons and accompanying memoranda it submits to the Governor available for public inspection.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-16a. Transfer of appellate jurisdiction to Intermediate Court of Appeals.

(a) Notwithstanding any other provision of this article:

(1) The Office of Judges may not review a decision of the authority, issued after December 31, 2022, in a certificate of need review. On or before March 31, 2023, the Office of Judges shall issue a final decision in, or otherwise dispose of, each and every appeal, pending before the Office of Judges, of a decision by the authority in a certificate of need review.

(2) An appeal of a final decision in a certificate of need review, issued by the authority after December 31, 2022, shall be made to the West Virginia Intermediate Court of Appeals, as provided in §29A-5-1 et seq. of this code.

(b) If the Office of Judges does not issue a final decision or otherwise dispose of any appeal of a decision of the authority in a certificate of need review on or before March 31, 2023, the appeal shall be transferred to the Intermediate Court of Appeals. For any appeal transferred pursuant to this subsection, the Intermediate Court of Appeals shall adopt any existing records of evidence and proceedings in the Office of Judges, conduct further proceedings as it considers necessary, and issue a final decision or otherwise dispose of the case as provided in §29A-5-1 et seq. of this code.

CHAPTER 23. WORKERS' COMPENSATION.

ARTICLE 1. GENERAL ADMINISTRATIVE PROVISIONS.

§23-1-1h. Powers and duties of Office of Judges transferred to Board of Review; definition of certain terms effective January 1, 2023.

(a) Notwithstanding any other provision of this code, with regard to an objection, protest, or any other decision issued after December 31, 2022, all powers and duties of the Workers' Compensation Office of Administrative Law Judges, as provided in this chapter, shall be transferred to the Workers' Compensation Board of Review.

(b) Notwithstanding any other provision of this code, the West Virginia Intermediate Court of Appeals has exclusive appellate jurisdiction over the following matters:

(1) Decisions or orders issued by the Office of Judges after December 31, 2022 and prior to its termination; and

(2) Decisions of the Workers' Compensation Board of Review, issued after December 31, 2022, as provided in §23-5-8a and §51-11-1 et seq. of this code.

(c) Unless the context clearly indicates a different meaning, effective January 1, 2023, the following terms shall have the following meanings for the purposes of this chapter, except when used in §23-5-1 *et seq.* of this code:

(1) ‘Administrative law judge’ means a member of the Workers’ Compensation Board of Review, or a hearing examiner designated by the board of review as authorized in §23-5-1 *et seq.* of this code;

(2) ‘Office of judges’ means the ‘Workers’ Compensation Board of Review’; and

(3) ‘Workers’ Compensation Board of Review’ or ‘board of review’ when used in reference to an appeal of a board of review decision, means the West Virginia Intermediate Court of Appeals, created by §51-11-1 *et seq.* of this code.

ARTICLE 5. REVIEW.

§23-5-1. Notice by commission or self-insured employer of decision; procedures on claims; objections and hearing.

(a) The Insurance Commissioner, private carriers, and self-insured employers may determine all questions within their jurisdiction. In matters arising under §23-2C-8(c), and under §23-3-1 *et seq.* and §23-4-1 *et seq.* of this code, the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, shall promptly review and investigate all claims. The parties to a claim are the claimant and, if applicable, the claimant’s ~~dependants~~ dependents, and the employer, and, with respect to claims involving funds created in §23-2C-1 *et seq.* of this code for which he or she has been designated the administrator, the Insurance Commissioner. In claims in which the employer had coverage on the date of the injury or last exposure, the employer’s carrier has sole authority to act on the employer’s behalf in all aspects related to litigation of the claim. With regard to any issue which is ready for a decision, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall promptly send the decision to all parties, including the basis of its

decision. As soon as practicable after receipt of any occupational pneumoconiosis or occupational disease claim or any injury claim in which temporary total benefits are being claimed, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall send the claimant a brochure approved by the Insurance Commissioner setting forth the claims process.

(b) (1) Except with regard to interlocutory matters, upon making any decision, upon making or refusing to make any award, or upon making any modification or change with respect to former findings or orders, as provided by §23-4-16 of this code, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall give notice, in writing, to the parties to the claim of its action. The notice shall state the time allowed for filing ~~a protest~~ an objection to the finding. The action of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final unless an objection to the decision is ~~protested~~ properly filed within 60 days after the receipt of such decision ~~unless a protest is filed within the 60 day period~~, the finding or action is final. This time limitation is a condition of the right to litigate the finding or action and hence jurisdictional. ~~Any protest~~ Any objection shall be filed with the ~~Office of Judges~~ Workers' Compensation Board of Review, as provided in §23-5-8 and §23-5-8a of this code, with a copy served upon the parties to the claim, and other parties in accordance with the procedures set forth in §23-5-8 and §23-5-9 of this code. An employer may ~~protest~~ file an objection to a ~~decisions~~ decision incorporating findings made by the Occupational Pneumoconiosis Board, decisions made by the Insurance Commissioner acting as administrator of claims involving funds created in §23-2C-1 *et seq.* of this code, or decisions entered pursuant to §23-4-7a(c)(1) of this code.

(2) (A) With respect to every application for benefits ~~filed on or after July 1, 2008~~, in which an objection to a decision to deny benefits is ~~protested~~ filed and the matter involves an issue as to whether the application was properly filed as a new claim or a reopening of a previous claim, the party that denied the application shall begin to make conditional payment of benefits and must

promptly give notice to the ~~Office of Judges~~ Workers' Compensation Board of Review that another identifiable person may be liable. The ~~Office of Judges~~ Workers' Compensation Board of Review shall promptly order the appropriate persons be joined as parties to the proceeding: *Provided*, That at any time during a proceeding in which conditional payments are being made in accordance with the provisions of this subsection, the ~~Office of Judges~~ Workers' Compensation Board of Review may, pending final determination of the person properly liable for payment of the claim, order that such conditional payments of benefits be paid by another party.

(B) Any conditional payment made pursuant to paragraph (A) of this subdivision shall not be deemed an admission or conclusive finding of liability of the person making such payments. When the ~~administrative law judge~~ Workers' Compensation Board of Review has made a determination as to the party properly liable for payment of the claim, ~~he or she~~ the Board of Review shall direct any monetary adjustment or reimbursement between or among the Insurance Commissioner, private carriers, and self-insured employers as is necessary.

(c) ~~The Office of Judges~~ The member of the Workers' Compensation Board of Review assigned to an objection, as provided in §23-5-9(b) of this code, may direct that:

(1) An application for benefits be designated as a petition to reopen, effective as of the original date of filing;

(2) A petition to reopen be designated as an application for benefits, effective as of the original date of filing; or

(3) An application for benefits or petition to reopen filed with the Insurance Commissioner, private carrier, or self-insured employer be designated as an application or petition to reopen filed with another private carrier, self-insured employer, or Insurance Commissioner, effective as of the original date of filing.

(d) Where an employer ~~protests~~ files an objection to a written decision entered pursuant to a finding of the Occupational

Pneumoconiosis Board, a decision on a claim made by the Insurance Commissioner acting as the administrator of a fund created in §23-2C-1 *et seq.* of this code, or decisions entered pursuant to §23-4-7a(c)(1) of this code, and the employer does not prevail in its protest objection, and in the event the claimant is required to attend a hearing by subpoena, or agreement of counsel, or at the express direction of the ~~Office of Judges~~ Workers' Compensation Board of Review, then the claimant, in addition to reasonable traveling and other expenses, shall be reimbursed for loss of wages incurred by the claimant in attending the hearing.

(e) The Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, may amend, correct, or set aside any order or decision on any issue entered by it which, at the time of issuance or any time after that, is discovered to be defective, or clearly erroneous, or the result of mistake, clerical error, or fraud, or with respect to any order or decision denying benefits, otherwise not supported by the evidence: ~~but~~ Provided, That any protest objection filed prior to entry of the amended decision is ~~a protest from an objection~~ to the amended decision unless and until the ~~administrative law judge before whom the matter is pending~~ Workers' Compensation Board of Review enters an order dismissing the protest objection as moot in light of the amendment. Jurisdiction to issue an amended decision pursuant to this subsection continues until the expiration of two years from the date of a decision to which the amendment is made unless the decision is sooner affected by an action of ~~an administrative law judge~~ the Workers' Compensation Board of Review or ~~other~~ a judicial officer or body: *Provided, however,* That corrective actions in the case of fraud may be taken at any time.

(f) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023.

§23-5-3. Refusal to reopen claim; notice; objection.

(a) If it appears to the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, that an application filed under §23-5-2 of this code fails

to disclose a progression or aggravation in the claimant's condition, or some other fact or facts which were not previously considered in its former findings, and which would entitle the claimant to greater benefits than the claimant has already received, the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, shall, within a reasonable time, notify the claimant and the employer that the application fails to establish a prima facie cause for reopening the claim. The notice shall be in writing stating the reasons for denial and the time allowed for objection to the decision of the commission. The claimant may, within 60 days after receipt of the notice, object in writing to the finding. Unless the objection is filed within the 60-day period, no objection shall be allowed. This time limitation is a condition of the right to objection and hence jurisdictional. Upon receipt of an objection, the Office of Judges Workers' Compensation Board of Review shall afford the claimant an evidentiary hearing as provided in §23-5-9 of this code.

(b) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023.

§23-5-5. Refusal of modification; notice; objection.

(a) If in any case it appears to the ~~commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, that the application filed pursuant to §23-5-4 of this code fails to disclose some fact or facts which were not previously considered ~~by the commission~~ in its former findings, and which would entitle the employer to any modification of the previous award, the ~~commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall, within 60 days from the receipt of the application, notify the claimant and employer that the application fails to establish a just cause for modification of the award. The notice shall be in writing stating the reasons for denial and the time allowed for objection to the decision of the ~~commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured

employers, whichever is applicable. The employer may, within 30 days after receipt of the notice, object in writing to the decision. Unless the objection is filed within the 30-day period, no objection shall be allowed. This time limitation is a condition of the right to objection and hence jurisdictional. Upon receipt of the objection, the Office of Judges Workers' Compensation Board of Review shall afford the employer an evidentiary hearing as provided in §23-5-9 of this code.

(b) The amendments to this section made during the 2020 regular session of the Legislature shall become effective on January 1, 2023.

§23-5-6. Time periods for objections and appeals; extensions.

(a) Notwithstanding the fact that the time periods set forth for objections, protests, and appeals to or from the Office of Judges Workers' Compensation Board of Review are jurisdictional, the periods may be extended or excused upon application of either party within a period of time equal to the applicable period by requesting an extension of the time period showing good cause or excusable neglect, accompanied by the objection or appeal petition. In exercising discretion, the administrative law judge, appeal board Workers' Compensation Board of Review or court, as the case may be, shall consider whether the applicant was represented by counsel and whether timely and proper notice was actually received by the applicant or the applicant's representative.

(b) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023.

§23-5-8. Designation of Transfer of powers and duties of the Office of Administrative Law Judges to the Workers' Compensation Board of Review; powers of chief administrative law judge the Workers' Compensation Board of Review in relation to review of objections.

~~(a) The Workers' Compensation Office of Administrative Law Judges previously created pursuant to chapter twelve, acts of the~~

~~Legislature, 1990, second extraordinary session, is hereby continued and designated to be an integral part of the workers' compensation system of this state. The Office of Judges shall be under the supervision of a chief administrative law judge who shall be appointed by the Governor with the advice and consent of the Senate.~~

(a) The Workers' Compensation Office of Administrative Law Judges, referred to as the Office of Judges, shall terminate on or before April 1, 2023 as provided in §23-5-8a of this code. All powers and duties of the Office of Judges to review objections, protests, or any other matter authorized by this chapter, shall be transferred to the Workers' Compensation Board of Review on January 1, 2023: *Provided*, That any objection or other matter filed pursuant to this chapter and pending before the Office of Judges upon its termination, in which a final decision has not been issued, shall also be transferred to the Workers' Compensation Board of Review as provided in §23-5-8a of this code.

~~(b) The chief administrative law judge shall be a person who has been admitted to the practice of law in this state and shall also have had at least four years of experience as an attorney. The chief administrative law judge's salary shall be set by the workers' compensation board of managers. The salary shall be within the salary range for comparable chief administrative law judges as determined by the state Personnel Board created by section six, article six, chapter twenty nine of this code. The chief administrative law judge may only be removed by a vote of two thirds of the members of the Workers' Compensation Board of managers. Upon transfer of the office of judges to the Insurance Commissioner, the chief administrative law judge shall continue to serve as chief administrative law judge until December 31, 2007. Thereafter, appointments of the chief administrative law judge shall be for terms of four years beginning January 1, 2008, and the chief administrative law judge may be removed only for cause by the vote of four members of the Industrial Council. No other provision of this code purporting to limit the term of office of any appointed official or employee or affecting the removal of any~~

~~appointed official or employee is applicable to the chief administrative law judge.~~

~~(e) (b) The chief administrative law judge Pursuant to §23-5-11(n) of this code, the Workers' Compensation Board of Review shall employ administrative law judges hearing examiners and other personnel that are necessary for the proper conduct of a system of administrative review of orders issued by the Workers' Compensation Commission which orders have been objected to by a party objections to decisions of the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, made pursuant to the provisions of §23-5-1 of this code and issued after December 31, 2022. The employees shall be in the classified service of the state. Qualifications, compensation and personnel practice relating to the employees of the office of judges other than the chief administrative law judge shall be governed by the provisions of this code and rules of the classified service pursuant to §29-6-1 et seq. of this code. All additional administrative law judges All hearing examiners hired by the Workers' Compensation Board of Review shall be persons who have been admitted to the practice of law in this state and shall also have had at least two four years of experience as an attorney. The chief administrative law judge chair of the Workers' Compensation Board of Review shall supervise the other administrative law judges hearing examiners and other personnel of the board, which collectively shall be referred to in this chapter as the office of judges Workers' Compensation Board of Review.~~

~~(d) The administrative expense of the office of judges shall be included within the annual budget of the Workers' Compensation Commission and, upon termination of the commission, the Insurance Commissioner.~~

~~(e) The office of judges shall, from time to time, promulgate rules of practice and procedure for the hearing and determination of all objections to findings or orders of the office of judges. The office of judges shall not have the power to initiate or to promulgate legislative rules as that phrase is defined in §29A-3-1 et seq. of this code. Any rules adopted pursuant to this section which are applicable to the provisions of this article are not subject to sections~~

~~nine through sixteen, inclusive, article three, chapter twenty nine a of this code. The office of judges shall follow the remaining provisions of chapter 29A of this code for giving notice to the public of its actions and the holding of hearings or receiving of comments on the rules.~~

~~(f) (c) The chief administrative law judge~~ Workers' Compensation Board of Review has the power to hear and determine all ~~disputed claims objections~~ in accordance with the provisions of this article, establish a procedure for the hearing of ~~disputed claims objections~~, take oaths, examine witnesses, issue subpoenas, establish the amount of witness fees, keep records, and make reports that are necessary for ~~disputed claims reviewing objections~~, and exercise any additional powers, including the delegation of powers to ~~administrative law judges or hearing examiners~~ that are necessary for the proper conduct of a system of administrative review of ~~disputed claims objections~~. The chair of the Workers' Compensation Board of Review shall make reports that are requested of him or her by the ~~workers' compensation board of managers~~ Insurance Commissioner.

~~(g) (d) Effective upon termination of the commission~~ Office of Judges, ~~the office of judges and the board of review shall be transferred to the Insurance Commissioner, which shall have the oversight and administrative authority heretofore provided to the executive director and the board of managers~~ the Insurance Commissioner shall have oversight and administrative authority over the Workers' Compensation Board of Review as heretofore provided to the Insurance Commissioner over the Office of Judges.

(e) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023.

§23-5-8a. Transfer of jurisdiction to review objections to Workers' Compensation Board of Review; termination of Office of Judges; appeals of board decisions to Intermediate Court of Appeals.

(a) The Office of Judges has no jurisdiction to review objections to a decision of the Insurance Commissioner, private

carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of this chapter and issued after December 31, 2022. The Workers' Compensation Board of Review has exclusive jurisdiction to review objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of this chapter and issued after December 31, 2022.

(b) On or before March 31, 2023, the Office of Judges shall issue a final decision in, or otherwise dispose of, each and every objection or other matter pending before the Office of Judges according to the procedure and requirements for such appeals heretofore provided in this article. If the Office of Judges does not issue a final decision or otherwise dispose of any objection or other matter pending before the Office of Judges on or before March 31, 2023, the objection or other matter shall be transferred to the Workers' Compensation Board of Review. For any objections transferred from the Office of Judges to the Workers' Compensation Board of Review, the board of review shall adopt any existing records of proceedings in the Office of Judges, conduct further proceedings and collect evidence as it determines to be necessary, and issue a final decision or otherwise dispose of the case according to the procedural rules promulgated pursuant to §23-5-11(m) of this code.

(c) Upon the Office of Judges' disposition of every matter pending before the office, or on April 1, 2023, whichever occurs earlier, the Office of Judges is terminated.

(d) The West Virginia Intermediate Court of Appeals, created in §51-11-1 et seq. of this code, has exclusive appellate jurisdiction over the following:

(1) Decisions or orders issued by the Office of Judges after December 31, 2022 and prior to its termination; and

(2) All final orders or decisions issued by the Workers' Compensation Board of Review after December 31, 2022.

§23-5-9. Hearings on objections to Insurance Commissioner; private carrier or self-insured employer decisions; mediation; remand.

(a) Objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of §23-5-1 of this code, shall be filed with the ~~office of judges~~ Workers' Compensation Board of Review. Upon receipt of an objection, the ~~office of judges~~ Workers' Compensation Board of Review shall notify the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, and all other parties of the filing of the objection. The ~~office of judges~~ Workers' Compensation Board of Review shall establish by rule, promulgated in accordance with the provisions of ~~§23-5-8(e)~~ §23-5-11(m) of this code, an adjudicatory process that enables parties to present evidence in support of their positions and provides an expeditious resolution of the objection. The employer, the claimant, the Insurance Commissioner, the private carrier, or the self-insured employer, whichever ~~are~~ is applicable, shall be notified of any hearing at least 10 days in advance. ~~The office of judges shall review and amend, or modify, as necessary, its procedural rules by July 1, 2007.~~

(b) The chair of the Workers' Compensation Board of Review shall assign, on a rotating basis, a member of the board of review to preside over the review process and issue a decision in each objection that is properly filed with the board of review. The member of the Workers' Compensation Board of Review assigned to an objection shall review evidence, conduct proceedings, and develop a record as is necessary for a full and thorough review of the objection: *Provided*, That the board member may delegate such duties to a hearing examiner employed by the board of review, pursuant to §23-5-8 and §23-5-11(n) of this code: *Provided, however*, That any order or decision of the board of review must be issued and signed by the member of the Board assigned to the objection, as provided in subsection (e) of this section: *Provided further*, That a time frame order, continuance order, show cause order, failure to prosecute order, or other interlocutory order as permitted by the Workers' Compensation Board of Review's

procedural rules may be issued and signed by a hearing examiner only, and is not subject to the general requirement that orders be issued and signed by a member of the board.

~~(b)~~ (c) ~~The office of judges~~ Workers' Compensation Board of Review shall establish a program for mediation to be conducted in accordance with the requirements of Rule 25 of the West Virginia Trial Court Rules. The parties may agree that the result of the mediation is binding. A case may be referred to mediation by ~~the administrative law judge~~ the board of review member assigned to the objection on his or her own motion, on motion of a party, or by agreement of the parties. Upon issuance of an order for mediation, ~~the office of judges~~ Workers' Compensation Board of Review shall assign a mediator from a list of qualified mediators maintained by the West Virginia State Bar.

~~(e)~~ (d) ~~The office of judges~~ Workers' Compensation Board of Review shall keep full and complete records of all proceedings concerning a ~~disputed claim~~ an objection. Subject to the rules of practice and procedure promulgated pursuant to ~~§23-5-8(e)~~ §23-5-11(m) of this code, the record upon which the matter shall be decided shall include any evidence submitted by a party to the ~~office of judges~~ Workers' Compensation Board of Review and evidence taken at hearings conducted by the ~~office of judges~~ board of review. The record may include evidence or documents submitted in electronic form or other appropriate medium in accordance with the rules of practice and procedure. ~~The office of judges~~ Workers' Compensation Board of Review is not bound by the usual common law or statutory rules of evidence.

~~(d)~~ (e) All hearings shall be conducted as determined by the ~~chief administrative law judge~~ Workers' Compensation Board of Review ~~pursuant~~ according to the rules of practice and procedure promulgated pursuant to ~~section eight of this article~~ §23-5-11(m) of this code. If a hearing examiner reviews an objection, the hearing examiner shall, at the conclusion of the review process, submit the designated record to the member of the Workers' Compensation Board of Review to whom the objection is assigned, along with the hearing examiner's recommendation of a decision affirming, reversing, or modifying the action that was subject to the

objection. Upon consideration of the designated record and, if applicable, the recommendation of the hearing examiner, the chief administrative law judge or other authorized adjudicator within the office of judges member of the Workers' Compensation Board of Review assigned to the objection shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing, or modifying the action protested that was subject to the objection. The decision shall contain findings of fact and conclusions of law, shall be signed by the member of the Workers' Compensation Board of Review rendering the decision, and shall be mailed to all parties.

~~(e)~~ (f) ~~The office of judges~~ Workers' Compensation Board of Review may remand a claim to the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, for further development of the facts or administrative matters as, in the opinion of the ~~administrative law judge~~ member of the board of review assigned to the objection, may be necessary for a full and complete disposition of the case. The ~~administrative law judge~~ member of the Workers' Compensation Board of Review assigned to the objection shall establish a time within which the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, must report back to the ~~administrative law judge~~ board of review.

~~(f)~~ (g) ~~The decision of the office of judges~~ Workers' Compensation Board of Review regarding any objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final, and benefits shall be paid or denied in accordance with the decision, unless an order staying the payment of benefits is specifically entered by ~~the Workers' Compensation Board of Review, created in §23-5-11 of this code~~ a court with appellate jurisdiction over the decision or by the ~~administrative law judge~~ member of the board of review who granted the benefits. ~~No~~ A stay with respect to any medical treatment or rehabilitation authorized by the ~~office of judges~~ Workers' Compensation Board of Review may not be granted. If the decision is subsequently appealed and reversed in accordance with the procedures set forth in this article, and any

overpayment of benefits occurs as a result of ~~such the~~ reversal, ~~any such the~~ overpayment may be recovered pursuant to the provisions of §23-4-1c(h) or §23-4-1d(d) of this code, as applicable.

§23-5-10. Appeal from ~~administrative law judge~~ a Workers' Compensation Board of Review decision to ~~appeal board~~ the Intermediate Court of Appeals.

(a) The employer, claimant, ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, may appeal to the ~~appeal board created in §23-5-11 of this code~~ West Virginia Intermediate Court of Appeals, created by §51-11-1 et seq. of this code, for a review of a decision by ~~an administrative law judge~~ the Workers' Compensation Board of Review. No appeal or review shall lie unless application ~~therefor~~ be is made within 30 days of receipt of notice of the ~~administrative law judge's~~ Workers' Compensation Board of Review's final action or in any event within 60 days of the date of such final action, regardless of notice and, unless the application for appeal or review is filed within the time specified, no such appeal or review shall be allowed, such time limitation being hereby declared to be a condition of the right of such appeal or review and hence jurisdictional.

(b) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023.

§23-5-11. Workers' Compensation Board of Review generally; administrative powers and duties of the board.

(a) ~~On January 31, 2004, the Workers' Compensation Appeal Board heretofore established in this section is hereby abolished.~~

~~(b) (a) There is created the~~ The Workers' Compensation Board of Review, which may also be referred to as the 'board of review' or the 'board', ~~is continued and granted Effective February 1, 2004, the board of Review shall exercise~~ exclusive jurisdiction over all appeals ~~from the Workers' Compensation Office of Judges~~

objections to decisions of the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, including any and all appeals matters pending with the board of Appeals on January 31, 2004 before the Office of Judges after March 31, 2023.

(e) (b) The board of review consists of three members.

(d) (c) The Governor shall appoint, from names submitted by the Workers' Compensation Board of Review Nominating Committee, with the advice and consent of the Senate, three qualified attorneys to serve as members of the board of review. If the Governor does not select a nominee for any vacant position from the names provided by the nominating committee, he or she shall notify the nominating committee of that circumstance, and the committee shall provide additional names for consideration by the Governor. A member of the board of review may be removed by the Governor for official misconduct, incompetence, neglect of duty, gross immorality, or malfeasance and then, only after notice and opportunity to respond and present evidence. No more than two of the members of the board may be of the same political party. ~~The members of the board of Review shall be paid an annual salary of \$85,000: *Provided*, That on and after July 1, 2008 the Governor shall set the salary of the members of the board: *Provided*, ~~however~~, That the annual salary of a member of the board of review shall not exceed \$110,000~~ \$125,000. Members are entitled to be reimbursed for actual and necessary travel expenses incurred in the discharge of official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(e) (d) The nominating committee consists of the following members: (1) The President of the West Virginia State Bar who serves as the chairperson of the committee; (2) an active member of the West Virginia State Bar Workers' Compensation Committee, selected by the major trade association representing employers in this state; (3) an active member of the West Virginia State Bar Workers' Compensation Committee, selected by the highest-ranking officer of the major employee organization representing workers in this state; (4) the Dean of the West Virginia

University School of Law; and (5) the Chairman of the Judicial Investigation Committee.

~~(f)~~ (e) The nominating committee is responsible for reviewing and evaluating candidates for possible appointment to the board of review by the Governor. In reviewing candidates, the nominating committee may accept comments from, and request information from, any person or source.

~~(g)~~ (f) Each member of the nominating committee may submit up to three names of qualified candidates for each position on the board of review: *Provided*, That the member of the nominating committee selected by the major trade organization representing employers of this state shall submit at least one name of a qualified candidate for each position on the board who either is, or who represents, small business employers of this state. After careful review of the candidates, the committee shall select a minimum of one candidate for each position on the board.

~~(h)~~ (g) Of the initial appointments, one member shall be appointed for a term ending December 31, 2006; one member shall be appointed for a term ending December 31, 2008; and one member shall be appointed for a term ending December 31, 2010. Thereafter, the appointments shall be for six-year terms.

~~(i)~~ (h) A member of the board of review must, at the time he or she takes office and thereafter during his or her continuance in office, be a resident of this state, be a member in good standing of the West Virginia State Bar, have a minimum of 10 years' experience as an attorney admitted to practice law in this state prior to appointment, and have a minimum of five years' experience in preparing and presenting cases or hearing actions and making decisions on the basis of the record of those hearings before administrative agencies, regulatory bodies, or courts of record at the federal, state, or local level.

~~(j)~~ (i) No member of the board of review may hold any other office, or accept any appointment or public trust, nor may he or she become a candidate for any elective public office or nomination thereto. Violation of this subsection requires the member to vacate

his or her office. No member of the Board of Review may engage in the practice of law during his or her term of office.

~~(k)~~ (j) A vacancy occurring on the board other than by expiration of a term shall be filled in the manner original appointments were made, for the unexpired portion of the term.

~~(l)~~ (k) The board shall designate one of its members in rotation to be chair of the board for as long as the board may determine by order made and entered of record. In the absence of the chair, any other member designated by the members present shall act as chair.

~~(m)~~ (l) The board of review shall meet as often as necessary to hold review hearings conduct the board's administrative business and make rules of practice and procedure, at such times and places as the chair may determine. Two members shall be present in order to conduct ~~review hearings or other~~ administrative business and make rules of practice and procedure. All decisions of the board upon administrative matters, pursuant to this section, shall be determined by a majority of the members of the board.

~~(n)~~ (m) The board of review shall, ~~make general rules regarding the pleading, including the form of the petition and any responsive pleadings, practice and procedure to be used by the board~~ promulgate rules of practice and procedure for the review and determination of all objections filed with the board. The board does not have the power to initiate or to promulgate legislative rules as that phrase is defined in §29A-3-1 et seq. of this code. Any rules adopted pursuant to this section which are applicable to the provisions of this article are not subject to §29A-3-9 through §29A-3-16, inclusive, of this code. The board shall follow the remaining provisions of chapter 29A of this code for giving notice to the public of its actions and the holding of hearings or receiving of comments on the rules.

~~(o)~~ (n) The board of review may hire a clerk, hearing examiners, and other professional and clerical staff necessary to carry out the requirements of this article. It is the duty of the clerk of the Board of Review to attend in person, or by deputy, all the sessions of the board, to obey its orders and directions, to take care

of and preserve in an office, kept for the purpose, all records and papers of the board and to perform other duties as prescribed by law or required of him or her by the board. All employees of the board serve at the will and pleasure of the board. The board's employees are exempt from the salary schedule or pay plan adopted by the Division of Personnel: Provided, That for the purpose of any applicable Division of Personnel Class Specifications, hearing examiners must be within a class with 'attorney' in the class title. All personnel of the board of review are under the supervision of the chair of the board of review.

(o) The administrative expenses of the board of review shall be included within the annual budget of the Insurance Commissioner, and the Insurance Commissioner shall have administrative authority and oversight over the board of review.

(p) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023: Provided, That the Board is authorized to promulgate rules and hire staff, pursuant to subsection (m) and (n) of this section, respectively, prior to January 1, 2023, to the extent necessary to comply with the requirements of this article that become effective on that date.

~~(p) If considered necessary by the board, the board may, through staffing or other resources, procure assistance in review of medical portions of decisions.~~

~~(q) Upon the conclusion of any hearing, or prior thereto with concurrence of the parties, the board shall promptly determine the matter and make an award in accordance with its determination.~~

~~(r) The award shall become a part of the commission file. A copy of the award shall be sent forthwith by mail to all parties in interest.~~

~~(s) The award is final when entered. The award shall contain a statement explaining the rights of the parties to an appeal to the board of Review and the applicable time limitations involved.~~

~~(t) The board shall submit to the Insurance Commissioner a budget sufficient to adequately provide for the administrative and other operating expenses of the board.~~

~~(u) The board shall report monthly to the Industrial Council on the status of all claims on appeal.~~

~~(v) Effective upon termination of the commission, the board of Review shall be transferred to The Insurance Commissioner which shall have the oversight and administrative authority heretofore provided to the executive director and the board of managers.~~

§23-5-12. Appeal ~~to~~ of board decisions to the Intermediate Court of Appeals; procedure; remand and supplemental hearing.

(a) Any employer, employee, claimant, or dependent who shall feel aggrieved at ~~any final action of the administrative law judge taken after a hearing held in accordance with the provisions of section nine of this article~~ by a decision of the Workers' Compensation Board of Review shall have the right to appeal to the ~~board created in §23-5-11 of this code~~ the West Virginia Intermediate Court of Appeals, created by §51-11-1 et seq. of this code, for a review of such action. The ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the ~~board~~ Intermediate Court of Appeals any final action taken by the ~~administrative law judge~~ Workers' Compensation Board of Review. The aggrieved party shall file a written notice of appeal with the ~~board of review~~ Intermediate Court of Appeals, with a copy to the ~~office of judges~~ Workers' Compensation Board of Review, within 30 days after receipt of notice of the action complained of or, in any event, regardless of notice, within 60 days after the date of the action complained of: ~~and~~ Provided, That unless the notice of appeal is filed within the time specified, no appeal shall be allowed: Provided, however, That the time limitation is a condition of the right to appeal and hence jurisdictional. The board shall notify the other parties immediately upon the filing of a notice of appeal. The notice of appeal shall state

the ~~ground grounds~~ for review and whether oral argument is requested. The ~~office of judges~~ Workers' Compensation Board of Review, after receiving a copy of the notice of appeal, shall forthwith make up a transcript of the any proceedings before the ~~office of judges~~ board of review and certify and transmit it to the ~~board~~ Intermediate Court of Appeals. The certificate shall incorporate a brief recital of the proceedings in the ~~case~~ matter and recite each order entered or decision issued and the date thereof.

(b) The ~~board~~ Intermediate Court of Appeals shall set a time and place for the hearing of arguments on each claim and shall notify the interested parties thereof. The review by the ~~board~~ court shall be based upon the record submitted to it and such oral argument as may be requested and received. The ~~board~~ Intermediate Court of Appeals may affirm, reverse, modify, or supplement the decision of the ~~administrative law judge~~ Workers' Compensation Board of Review and make such disposition of the case as it determines to be appropriate. Briefs may be filed by the interested parties in accordance with the rules of procedure prescribed by the ~~board~~ court. The ~~board~~ Intermediate Court of Appeals may affirm the order or decision of the ~~administrative law judge~~ Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the ~~administrative law judge~~ Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the ~~administrative law judge's~~ board of review's findings are:

- (1) In violation of statutory provisions; ~~or~~
- (2) In excess of the statutory authority or jurisdiction of the ~~administrative law judge~~ board of review; ~~or~~
- (3) Made upon unlawful procedures; ~~or~~
- (4) Affected by other error of law; ~~or~~
- (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) After a review of the case, the ~~board~~ Intermediate Court of Appeals shall issue a written decision and send a copy by mail to the parties.

(1) All decisions, findings of fact, and conclusions of law of the ~~board of review~~ Intermediate Court of Appeals shall be in writing and state with specificity the laws and facts relied upon to sustain, reverse, or modify the ~~administrative law judge's board of review's~~ decision.

~~(2) Decisions of the board of review shall be made by a majority vote of the board of review.~~

~~(3) (2) A decision of the board of review~~ Intermediate Court of Appeals is binding upon ~~the executive director and the commission and the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, with respect to~~ the parties involved in the particular appeal. The ~~executive director, the successor to the commission~~ Insurance Commissioner, ~~other private insurance carriers, and self-insured employers,~~ employee, employees, claimant, or dependents, whichever is applicable, shall have the right to seek judicial review of a ~~board of review decision~~ final decision of the Intermediate Court of Appeals, pursuant to §51-11-13 of this code, irrespective of whether or not he or she appeared or participated in the appeal to the board of review.

(d) Instead of affirming, reversing, or modifying the decision of the ~~administrative law judge~~ Workers' Compensation Board of Review, the ~~board~~ Intermediate Court of Appeals may, upon motion of any party or upon its own motion, for good cause shown, to be set forth in the order of the ~~board~~ court, remand the case to the ~~chief administrative law judge~~ board of review for the taking of such new, additional, or further evidence as in the opinion of the ~~board~~ court ~~may be~~ court considers necessary for a full and complete development of the facts of the case. In the event the ~~board~~ Intermediate Court of Appeals shall remand the case to the

~~chief administrative law judge~~ Board of Review for the taking of further evidence, the ~~administrative law judge~~ Board of Review shall proceed to take new, additional, or further evidence in accordance with any instruction given by the ~~board court~~ within 30 days after receipt of the order remanding the case. The ~~chief administrative law judge~~ Workers' Compensation Board of Review shall give to the interested parties at least 10 days' written notice of the supplemental hearing, unless the taking of evidence is postponed by agreement of parties, or by the ~~administrative law judge~~ board of review for good cause. After the completion of a supplemental hearing, the ~~administrative law judge~~ Workers' Compensation Board of Review shall, within 60 days, render ~~his~~ ~~or her~~ its decision affirming, reversing, or modifying the former action of the ~~administrative law judge~~ Workers' Compensation Board of Review. The decision shall be appealable to, and proceeded with, by the ~~board of review~~ Intermediate Court of Appeals in the same manner as other appeals. In addition, upon a finding of good cause, the ~~board court~~ may remand the case to the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, ~~and~~ or self-insured employers, whichever is applicable, for further development. Any decision made by the ~~commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, ~~and~~ or self-insured employers, whichever is applicable, following a remand, shall be subject to objection to the ~~office of judges~~ Workers' Compensation Board of Review and not to the ~~board~~ Intermediate Court of Appeals. The ~~board~~ Intermediate Court of Appeals may remand any case as often as, in its opinion, is necessary for a full development and just decision of the case.

(e) ~~All appeals from the action of the administrative law judge shall be decided by the board at the same session at which they are heard, unless good cause for delay thereof be shown and entered of record.~~

(f) (e) In all proceedings before the ~~board~~ Intermediate Court of Appeals, any party may be represented by counsel.

(f) The amendments to this section made during the 2020 Regular Session of the Legislature become effective on January 1, 2023.

§23-5-13. Continuances and supplemental hearings; claims not to be denied on technicalities.

(a) It is the policy of this chapter that the rights of claimants for workers' compensation be determined as speedily and expeditiously as possible to the end that those incapacitated by injuries and the dependents of deceased workers may receive benefits as quickly as possible in view of the severe economic hardships which immediately befall the families of injured or deceased workers. Therefore, the criteria for continuances and supplemental hearings 'for good cause shown' are to be strictly construed by the ~~chief administrative law judge and his or her~~ Workers' Compensation Board of Review and its authorized representatives to prevent delay when granting or denying continuances and supplemental hearings. It is also the policy of this chapter to prohibit the denial of just claims of injured or deceased workers or their dependents on technicalities.

(b) The amendments to this section made during the 2020 Regular Session of the Legislature become effective on January 1, 2023.

§23-5-15. Appeals from final decisions of board to Supreme Court of Appeals prior to January 1, 2023; procedure; costs.

(a) As provided in §23-5-8a of this code, the provisions of this section do not apply to any decision issued by the Workers' Compensation Board of Review after December 31, 2022.

~~(a)~~ (b) Review of any final decision of the board, including any order of remand, may be prosecuted by either party or by the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, to the Supreme Court of Appeals within 30 days from the date of the final

order by filing a petition therefor with the court against the board and the adverse party or parties as respondents. Unless the petition for review is filed within the 30-day period, no appeal or review shall be allowed, such time limitation is a condition of the right to such appeal or review and hence jurisdictional. The clerk of the Supreme Court of Appeals shall notify each of the respondents and the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, of the filing of such petition. The board shall, within 10 days after receipt of the notice, file with the clerk of the court the record of the proceedings had before it, including all the evidence. The court or any judge thereof in vacation may thereupon determine whether or not a review shall be granted. If review is granted to a nonresident of this state, he or she shall be required to execute and file with the clerk before an order or review shall become effective, a bond, with security to be approved by the clerk, conditioned to perform any judgment which may be awarded against him or her. The board may certify to the court and request its decision of any question of law arising upon the record, and withhold its further proceeding in the case, pending the decision of court on the certified question, or until notice that the court has declined to docket the same. If a review is granted or the certified question is docketed for hearing, the clerk shall notify the board and the parties litigant or their attorneys and the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, of that fact by mail. If a review is granted or the certified question docketed, the case shall be heard by the court in the same manner as in other cases, except that neither the record nor briefs need be printed. Every review granted or certified question docketed prior to 30 days before the beginning of the term, shall be placed upon the docket for that term. The Attorney General shall, without extra compensation, represent the board in such cases. The court shall determine the matter brought before it and certify its decision to the board and to the commission. The cost of the proceedings on petition, including a reasonable attorney's fee, not exceeding \$30 to the claimant's attorney, shall be fixed by the court and taxed against the employer if the latter is

unsuccessful. If the claimant, or the commission (in case the latter is the applicant for review) is unsuccessful, the costs, not including attorney's fees, shall be taxed against the commission, payable out of the Workers' Compensation Fund, or shall be taxed against the claimant, in the discretion of the court: But there shall be no cost taxed upon a certified question.

~~(b)~~ (c) In reviewing a decision of the board of review, the Supreme Court of Appeals shall consider the record provided by the board and give deference to the board's findings, reasoning, and conclusions, in accordance with subsections ~~(e)~~, (d) and (e) of this section.

~~(e)~~ (d) If the decision of the board represents an affirmation of a prior ruling by both the commission and the Office of Judges that was entered on the same issue in the same claim, the decision of the board may be reversed or modified by the Supreme Court of Appeals only if the decision is in clear violation of constitutional or statutory provision, is clearly the result of erroneous conclusions of law, or is based upon the board's material misstatement or mischaracterization of particular components of the evidentiary record. The court may not conduct a de novo reweighing of the evidentiary record. If the court reverses or modifies a decision of the board pursuant to this subsection, it shall state with specificity the basis for the reversal or modification and the manner in which the decision of the board clearly violated constitutional or statutory provisions, resulted from erroneous conclusions of law, or was based upon the board's material misstatement or mischaracterization of particular components of the evidentiary record.

~~(d)~~ (e) If the decision of the board effectively represents a reversal of a prior ruling of either the commission or the Office of Judges that was entered on the same issue in the same claim, the decision of the board may be reversed or modified by the Supreme Court of Appeals only if the decision is in clear violation of constitutional or statutory provisions, is clearly the result of erroneous conclusions of law, or is so clearly wrong based upon the evidentiary record that even when all inferences are resolved in favor of the board's findings, reasoning, and conclusions, there is

insufficient support to sustain the decision. The court may not conduct a de novo reweighing of the evidentiary record. If the court reverses or modifies a decision of the board pursuant to this subsection, it shall state with specificity the basis for the reversal or modification and the manner in which the decision of the board clearly violated constitutional or statutory provisions, resulted from erroneous conclusions of law, or was so clearly wrong based upon the evidentiary record that even when all inferences are resolved in favor of the board's findings, reasoning, and conclusions, there is insufficient support to sustain the decision.

§23-5-16. Fees of attorney for claimant; unlawful charging or receiving of attorney fees.

(a) An attorney's fee in excess of 20 percent of any award granted may not be charged or received by an attorney for a claimant or dependent. In no case may the fee received by the attorney of the claimant or dependent be in excess of 20 percent of the benefits, to be paid during a period of 208 weeks. The interest on disability or dependent benefits, as provided in this chapter, may not be considered as part of the award in determining the attorney's fee. However, any contract entered into in excess of 20 percent of the benefits to be paid during a period of 208 weeks, as herein provided, is unlawful and unenforceable as contrary to the public policy of this state and any fee charged or received by an attorney in violation thereof is an unlawful practice and renders the attorney subject to disciplinary action.

(b) On a final settlement an attorney may charge a fee not to exceed 20 percent of the total value of the medical and indemnity benefits: *Provided*, That this attorney's fee, when combined with any fees previously charged or received by the attorney for permanent partial disability or permanent total disability benefits may not exceed 20 percent of an award of benefits to be paid during a period of 208 weeks.

(c) Except attorney's fees and costs recoverable pursuant to §23-2C-21(c) of this code, an attorney's fee for successful recovery of denied medical benefits may be charged or received by an attorney and paid by the private carrier or self-insured employer,

for a claimant or dependent under this section. In no event may attorney's fees and costs be awarded pursuant to both this section and §23-2C-21(c) of this code.

(1) If a claimant successfully prevails in a proceeding relating to a denial of medical benefits brought before the ~~commission, successor to the commission~~ Insurance Commissioner, other private carrier, or self-insured employer, whichever is applicable, as a result of utilization review, arbitration, mediation, or other proceedings, or a combination thereof, relating to denial of medical benefits before the ~~Office of Judges~~ Workers' Compensation Board of Review, or a court, there shall additionally be charged against the private carriers or self-insured employers, whichever is applicable, the reasonable costs and reasonable hourly attorney's fees of the claimant. Following the successful resolution of the denial in favor of the claimant, a fee petition shall be submitted by the claimant's attorney to the Insurance Commissioner or his or her successors, arbitrators, mediator, the ~~Office of Judges~~ Workers' Compensation Board of Review or a court, whichever enters a final decision on the issue. An attorney representing a claimant must submit a claim for attorney's fees and costs within 30 days following a decision in which the claimant prevails and the order becomes final.

(2) The Insurance Commissioner or his or her successors, arbitrators, ~~mediator~~ mediators, the ~~Office of Judges~~ Workers' Compensation Board of Review, or a court shall enter an order within 30 days awarding reasonable attorney's fees not to exceed \$125 per hour and reasonable costs of the claimant to be paid by the private carriers or self-insured employers, whichever is applicable, which shall be paid as directed. In no event may an award of the claimant's attorney's fees under this subsection exceed \$500 per litigated medical issue, not to exceed \$2,500 in a claim.

(3) In determining the reasonableness of the attorney's fees to be awarded, the Insurance Commissioner, arbitrator, mediator, ~~Office of Judges~~ Workers' Compensation Board of Review, or court shall consider the experience of the attorney, the complexity

of the issue, the hours expended, and the contingent nature of the fee.

(d) The amendments to this section made during the 2020 regular session of the Legislature become effective on January 1, 2023.

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES ACT.

ARTICLE 5. CONTESTED CASES.

§29A-5-4. Judicial review of contested cases.

(a) Any party adversely affected by a final order or decision in a contested case is entitled to judicial review thereof under this chapter, but nothing in this chapter shall be deemed to prevent other means of review, redress, or relief provided by law.

(b) Proceedings for review of any final order or decision issued on or before December 31, 2022, shall be instituted by filing a petition, at the election of the petitioner, in either the Circuit Court of Kanawha County, West Virginia, or in the circuit court of the county in which the petitioner or any one of the petitioners resides or does business, or with the judge thereof in vacation, within 30 days after the date upon which such party received notice of the final order or decision of the agency. Notwithstanding any provision of this code to the contrary, proceedings for judicial review of any final order or decision issued after December 31, 2022, must be instituted by filing an appeal, at the election of a party desiring appeal, to the Intermediate Court of Appeals as provided in §51-11-1 et seq. of this code. A copy of the petition shall be served upon the agency and all other parties of record by registered or certified mail. The petition shall state whether the appeal is taken on questions of law or questions of fact, or both. No appeal bond shall be required to effect any such appeal.

(c) The filing of the petition shall not stay enforcement of the agency order or decision or act as a supersedeas thereto, but the agency may stay such enforcement, and the appellant, at any time after the filing of his or her petition, may apply to such ~~circuit~~ court

for a stay of or supersedeas to such final order or decision. Pending the appeal, the court may grant a stay or supersedeas upon such terms as it deems proper.

(d) Within 15 days after receipt of a copy of the petition by the agency, or within such further time as the court may allow, the agency shall transmit to such ~~either~~ court the original or a certified copy of the entire record of the proceeding under review, including a transcript of all testimony and all papers, motions, documents, evidence, and records as were before the agency, all agency staff memoranda submitted in connection with the case, and a statement of matters officially noted; but, by stipulation of all parties to the review proceeding, the record may be shortened. The expense of preparing such record shall be taxed as a part of the costs of the appeal. The appellant shall provide security for costs satisfactory to the court. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs involved. Upon demand by any party to the appeal, the agency shall furnish, at the cost of the party requesting same, a copy of such record. In the event the complete record is not filed with the court within the time provided for in this section, the appellant may apply to the court to have the case docketed, and the court shall order such record filed.

(e) Appeals taken on questions of law, fact, or both, shall be heard upon assignments of error filed in the cause or set out in the briefs of the appellant. Errors not argued by brief may be disregarded, but the court may consider and decide errors which are not assigned or argued. The court or judge shall fix a date and time for the hearing on the petition, but such hearing, unless by agreement of the parties, shall not be held sooner than 10 days after the filing of the petition, and notice of such date and time shall be forthwith given to the agency.

(f) The review shall be conducted by the court without a jury and shall be upon the record made before the agency, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken before the court. The court may hear oral arguments and require written briefs.

(g) The court may affirm the order or decision of the agency or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the agency if the substantial rights of the petitioner or petitioners have been prejudiced because the administrative findings, inferences, conclusions, decision, or order are:

(1) In violation of constitutional or statutory provisions; ~~or~~

(2) In excess of the statutory authority or jurisdiction of the agency; ~~or~~

(3) Made upon unlawful procedures; ~~or~~

(4) Affected by other error of law; ~~or~~

(5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(h) The judgment of the circuit court or the Intermediate Court of Appeals, whichever is applicable, shall be final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals of this state in accordance with the provisions of §29A-6-1 of this code.

ARTICLE 6. APPEALS.

§29A-6-1. Supreme Court of Appeals.

(a) Any party adversely affected by the final judgment of the circuit court under this chapter may seek review thereof by appeal to the Supreme Court of Appeals of this state, and jurisdiction is hereby conferred upon such court to hear and entertain such appeals upon application made therefor in the manner and within the time provided by law for civil appeals generally: Provided, That a circuit court has no jurisdiction to review a final order or decision in a contested case issued after December 31, 2022.

(b) Any party adversely affected by the final order, decision, or judgment of the Intermediate Court of Appeals under this chapter may seek review thereof by petition to the Supreme Court of Appeals, pursuant to the requirements of §51-11-1 et seq. of this code.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 2A. FAMILY COURTS.

§51-2A-24. Review by Intermediate Court of Appeals; transfer of jurisdiction from circuit courts.

(a) Notwithstanding any provision of this code to the contrary, an appeal of a final order or decision entered by a family court after December 31, 2022, must be made to the Intermediate Court of Appeals, as provided in §51-11-1 et seq. of this code.

(b) Notwithstanding any provision of this code to the contrary, a circuit court has no jurisdiction to review a final order or decision entered by a family court after December 31, 2022, if review of the final order or decision is within the jurisdiction of the Intermediate Court of Appeals, as provided in §51-11-5 of this code.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-1a. Definitions.

(a) As used in this article, the term ‘judge’, ‘judge of any court of record’, or ‘judge of any court of record of this state’ means, refers to, and includes judges of the several circuit courts, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals. For purposes of this article, the terms do not mean, refer to, or include family court judges.

(b) ‘Actuarially equivalent’ or ‘of equal actuarial value’ means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum

benefit requirements of Section 415 of the Internal Revenue Code, 'actuarially equivalent' shall be computed using the mortality tables and interest rates required to comply with those requirements.

(c) 'Beneficiary' means any person, except a member, who is entitled to an annuity or other benefit payable by the retirement system.

(d) 'Board' means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

(e) 'Final average salary' means the average of the highest 36 consecutive months' compensation received by the member as a judge of any court of record of this state.

(f) 'Internal Revenue Code' means the Internal Revenue Code of 1986, as it has been amended.

(g) 'Member' means a judge participating in this system.

(h) 'Plan year' means the 12-month period commencing on July 1 of any designated year and ending the following June 30.

(i) 'Required beginning date' means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age 70 and one-half; or (2) the calendar year in which the member retires or otherwise separates from covered employment.

(j) 'Retirement system' or 'system' means the Judges' Retirement System created and established by this article. Notwithstanding any other provision of law to the contrary, the provisions of this article are applicable only to circuit judges, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals in the manner specified in this article. No service as a family court judge may be construed to qualify a person to participate in the Judges' Retirement System or used in any manner as credit toward eligibility for retirement benefits under the Judges' Retirement System.

ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.

§51-11-1. Short title.

This article is known and may be cited as the West Virginia Appellate Reorganization Act of 2020.

§51-11-2. Findings.

The Legislature finds that:

(1) Section one, article VIII of the Constitution of West Virginia explicitly recognizes the power of the Legislature to establish an intermediate court of appeals;

(2) Section six, article VIII of the Constitution of West Virginia acknowledges that appellate jurisdiction ‘may be conferred by law exclusively upon an intermediate appellate court’ and numerous additional references to the potential creation of an intermediate appellate court by the Legislature appear throughout the Constitution; and

(3) Section three, article VIII of the Constitution of West Virginia grants the West Virginia Supreme Court of Appeals supervisory control over all intermediate appellate courts in the state, including the power to promulgate rules for the procedures of an intermediate appellate court created by statute. The same constitutional provisions name the Chief Justice of the Supreme Court of Appeals the ‘administrative head’ of such courts, empowering the chief justice to exercise supervisory control over an intermediate court of appeals.

§51-11-3. Definitions.

For the purpose of this article:

‘Circuit court’ means a circuit court of this state, as provided in §51-2-1 of this code.

‘Clerk’ means the Clerk of the West Virginia Supreme Court of Appeals, as provided in §51-1-11 of this code.

‘Intermediate Court of Appeals’ means the Intermediate Court of Appeals created by this article.

‘Judge’ means a person elected to serve as a judge for the Intermediate Court of Appeals, pursuant to this article, or a person appointed to fill a vacancy in the office of judge for the Intermediate Court of Appeals.

‘Supreme Court of Appeals’ means the West Virginia Supreme Court of Appeals.

§51-11-4. West Virginia Intermediate Court of Appeals created; geographical districts.

(a) In accordance with section one, article VIII of the Constitution of West Virginia, the Intermediate Court of Appeals is hereby created. The court shall be established and operable on January 1, 2023.

(b) The Intermediate Court of Appeals is composed of two geographical districts: The Intermediate Court of Appeals for the Northern District and the Intermediate Court of Appeals for the Southern District. Each district has jurisdiction over appeals of final decisions, judgments, or orders entered within the district’s designated counties, as follows:

(1) The Intermediate Court of Appeals for the Northern District has jurisdiction over appeals of decisions, judgments, or orders entered within the following counties: Barbour, Berkeley, Brooke, Doddridge, Grant, Hampshire, Hancock, Hardy, Harrison, Jefferson, Marion, Marshall, Mineral, Monongalia, Morgan, Ohio, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Wetzel, Wirt, and Wood.

(2) The Intermediate Court of Appeals for the Southern District has jurisdiction over appeals of decisions, judgments, or orders entered within the following counties: Boone, Braxton, Cabell, Calhoun, Clay, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, Upshur, Wayne, Webster, and Wyoming.

(c) Each district of the Intermediate Court of Appeals shall convene, conduct proceedings, and issue decisions, rulings, and opinions of the court in panels of three judges.

(d) The Intermediate Court of Appeals for the Northern District shall conduct proceedings and have its usual and customary seat and offices for all judges and staff in the city of Clarksburg in Harrison County, but may conduct proceedings in other locations within its district by special assignment. The Intermediate Court of Appeals for the Southern District shall conduct proceedings and have its usual and customary seat and offices for all judges and staff in the city of Beckley in Raleigh County, but may conduct proceedings in other locations within its district by special assignment.

§51-11-5. Jurisdiction; limitations.

(a) The Intermediate Court of Appeals has no original jurisdiction.

(b) Unless specifically provided otherwise in this article, appeals of the following matters shall be made to the Intermediate Court of Appeals, which has appellate jurisdiction over such matters:

(1) Final judgments or orders of a circuit court in a criminal case, entered after December 31, 2022, or writs of habeas corpus issued by a circuit court after December 31, 2022;

(2) Final judgments or orders of a circuit court in a civil case, entered after December 31, 2022;

(3) Final judgments or orders of a family court, entered after December 31, 2022;

(4) Final judgments or orders of a circuit court concerning guardianship or conservatorship matters, pursuant to §44A-1-1 *et seq.* of this code, entered after December 31, 2022;

(5) Final judgments, orders, or decisions of an agency or an administrative law judge entered after December 31, 2022,

heretofore appealable to the Circuit Court of Kanawha County pursuant to §29A-5-4 or any other provision of this code;

(6) Final orders or decisions of the Health Care Authority issued prior to December 31, 2022, in a certificate of need review, but transferred to the jurisdiction of the Intermediate Court of Appeals upon termination of the Office of Judges pursuant to §16-2D-16a of this code;

(7) Final orders or decisions issued by the Office of Judges after December 31, 2022, and prior to its termination, as provided in §16-2D-16 and §23-5-8a of this code; and

(8) Final orders or decisions of the Workers' Compensation Board of Review pursuant to §23-5-1 *et seq.* of this code, entered after December 31, 2022.

(c) In appeals properly filed pursuant to subsection (b) of this section, the parties shall be afforded a full and meaningful review on the record of the lower tribunal and an opportunity to be heard.

(d) The Intermediate Court of Appeals does not have appellate jurisdiction over the following matters:

(1) Judgments or final orders issued in any juvenile proceeding pursuant to §49-4-701 *et seq.* of this code;

(2) Judgments or final orders issued in child abuse and neglect proceedings pursuant to §49-4-601 *et seq.* of this code;

(3) Orders of commitment, pursuant to §27-5-1 *et seq.* of this code;

(4) Final decisions of the Public Service Commission, pursuant to §24-5-1 of this code;

(5) Interlocutory appeals;

(6) Certified questions of law; and

(7) Extraordinary remedies, as provided in §53-1-1 *et seq.* of this code, and any appeal of a decision or order of another court

regarding an extraordinary remedy: *Provided*, That this subdivision does not apply to appeals of writs of habeas corpus issued by a circuit court.

§51-11-6. Motion for direct review by Supreme Court of Appeals.

(a) Within 10 days after a petition for appeal is properly filed in the Intermediate Court of Appeals, a party to the petition may file a motion to the West Virginia Supreme Court of Appeals for direct review of a final judgment or order that is otherwise within the appellate jurisdiction of the Intermediate Court of Appeals pursuant to §51-11-5 of this code, in any of the following cases:

(1) The appeal involves issues of first impression;

(2) The appeal involves a question of fundamental public importance; or

(3) The appeal involves exigencies, in which time is of the essence, necessitating immediate direct review of the appeal by the Supreme Court of Appeals.

(b) Notwithstanding any other provision of this code, if the Supreme Court of Appeals grants a motion filed pursuant to this section within 20 days after such motion is filed, jurisdiction over the appeal is transferred to the Supreme Court of Appeals according to all applicable rules of the court: *Provided*, That the Intermediate Court of Appeals shall have jurisdiction over any matter remanded to the jurisdiction of the Intermediate Court of Appeals by the Supreme Court of Appeals.

(c) The Legislature requests that the Supreme Court of Appeals develop and adopt rules permitting parties to file a motion for direct appeal to the Supreme Court of Appeals, as described in this section, and that the rules provide for the granting of such a motion only in the extraordinary circumstances described in subsection (a) of this section.

§51-11-7. Qualifications of judges.

A person must meet the following eligibility criteria to serve as a judge of the Intermediate Court of Appeals:

(1) The person must be a member, in good standing, of the West Virginia State Bar;

(2) The person must be admitted to practice law in the State of West Virginia for 10 years prior to election to the Intermediate Court of Appeals;

(3) The person must be a resident of the State of West Virginia for five years prior to election to the Intermediate Court of Appeals;

(4) The person must be a resident of the district of the West Virginia Intermediate Court of Appeals in which he or she serves; and

(5) The person may not be engaged in the practice of law while serving as a judge of the Intermediate Court of Appeals.

§51-11-8. Election of judges; vacancies; length of terms.

(a) Judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis to serve 10-year terms, subject to the exception for the initial election to stagger terms, as provided in subsection (c) of this section. Each judge shall be elected by the voters of the counties within the geographical district of the court in which he or she will serve.

(b) If no candidate for judge of the Intermediate Court of Appeals receives more than 40 percent of the votes cast in the primary election, a runoff election shall be conducted concurrently with the general election. The ballot for the runoff election shall include a provision for selection only between those two candidates who received the highest and second highest number of ballots cast in the applicable division for judge of the Intermediate Court of Appeals in the election for that office held concurrently with the primary election.

(c) *Initial Election.* — The initial election of judges to the Intermediate Court of Appeals shall take place during the primary election of 2022. Each judge shall be elected to a term beginning on January 1, 2023, with one judge elected to serve a 10-year term in each district, one judge to serve a six-year term in each district, and one judge to serve a four-year term in each district. For the

purposes of the initial election of judges pursuant to this subsection, the Secretary of State shall, in each district, establish three separate divisions corresponding to the judicial terms on the ballot. The candidates for election in each numbered division shall be tallied separately, and the eligible candidate receiving the highest numbers of votes cast within a numbered division in his or her district shall be elected to serve the corresponding judicial term.

(d) *Regular election of judges.* — Following the initial election of judges pursuant to subsection (c) of this section, during the primary election in every year during which a sitting judge's term will expire, a judge shall be elected to each district of the Intermediate Court of Appeals to serve a 10-year term commencing on January 1 of the following year.

(e) *Vacancies.* — If a vacancy arises before the expiration of a judicial term, the vacancy shall be filled as provided in §3-10-1 *et seq.* of this code. A judge appointed to fill a vacancy must meet the requirements in §51-11-7 of this code at the time of appointment.

(f) The judges of each district of the West Virginia Intermediate Court of Appeals shall periodically select one judge to serve as chief judge for their respective district, pursuant to rules promulgated by the Supreme Court of Appeals.

(g) A person sitting as a judge of the Intermediate Court of Appeals may not retain his or her position as judge upon becoming a pre-candidate or candidate for any other elected public office, judicial or nonjudicial.

(h) The Legislature recognizes that the Chief Justice of the West Virginia Supreme Court of Appeals has authority to temporarily assign judges to the Intermediate Court of Appeals pursuant to section eight, article VIII of the Constitution of West Virginia, in the event that a judge is temporarily unable to serve on the court.

§51-11-9. Rules of practice and procedure; fees; deadlines.

(a) Unless specifically provided otherwise in this article, the pleadings, practice, and procedure in all matters before the

Intermediate Court of Appeals are governed by rules promulgated by the Supreme Court of Appeals.

(b) Filing; records. —

All notices of appeals, petitions, documents, and records in connection with an appeal to the Intermediate Court of Appeals shall be filed in accordance with rules promulgated by the Supreme Court of Appeals.

(c) Fees. —

(1) The Clerk of the West Virginia Supreme Court of Appeals may charge a party appealing to the Intermediate Court of Appeals a filing fee in the amount of \$200.

(2) All moneys collected pursuant to this subsection shall be deposited in the State Police Forensic Laboratory Fund, created by §15-2-24d of this code, and all expenditures from the fund shall comply with the requirements of that section.

(d) Appeal bonds. —

The court may order the payment of an appeal bond before an appeal to the Intermediate Court of Appeals may commence, pursuant to rules promulgated by the Supreme Court of Appeals, and when applicable, the requirements of §58-5-14 of this code.

§51-11-10. Administration of court.

(a) In accordance with section three, article VIII of the Constitution of West Virginia, the Intermediate Court of Appeals is subject to the administrative control, supervision, and oversight of the West Virginia Supreme Court of Appeals.

(b) Filing; records. — Appeals to the Intermediate Court of Appeals shall be filed with the Clerk of the West Virginia Supreme Court of Appeals. All appeals and other related documents shall be filed by electronic means, when available.

(c) Facilities. — The West Virginia Intermediate Court of Appeals shall hear arguments in the court's respective districts in

the locations specified in §51-11-4 of this code. The Administrative Director of the West Virginia Supreme Court of Appeals shall arrange for facilities in the required locations, where each district of the court will have its usual and customary seat and offices. Facilities may include, but are not limited to, courtrooms in county courthouses, courtrooms in federal courthouses, county commission rooms in county courthouses, rooms or facilities at institutions of higher education, and other suitable spaces in federal, state, county, or municipal buildings throughout the state.

(d) *Oral argument.* — The Intermediate Court of Appeals has discretion to determine whether appellate review of a case before the court requires oral argument.

(e) *Staff.* — The Administrative Director of the West Virginia Supreme Court of Appeals shall provide administrative support and may employ additional staff, as necessary, for the efficient operation of the Intermediate Court of Appeals. The budget for the payment of compensation and expenses of the Intermediate Court of Appeals staff shall be included in the appropriation to the Supreme Court of Appeals.

§51-11-11. Reporting of judicial information.

(a) The chief judge of each district of the West Virginia Intermediate Court of Appeals shall prepare a biannual report, available to the public, that contains the following information, as it pertains to the judge's district:

(1) The number of motions that have been pending before the court for more than three months and the name and case number assigned to each appeal in which such motion has been pending; and

(2) The number of appeals that have not been disposed of within six months after filing and the name and case number assigned to each case.

(b) The chief judge of each district of the West Virginia Intermediate Court of Appeals shall submit and certify the list

required by this section to the Supreme Court of Appeals and Joint Committee on Government and Finance on a biannual basis.

§51-11-12. Written opinions; precedential effect.

(a) The Intermediate Court of Appeals is a court of record and shall issue, as appropriate in each appeal, written opinions, orders, and decisions: *Provided*, That a written decision on the merits shall be issued as a matter of right in each appeal that is properly filed and within the jurisdiction of the Intermediate Court of Appeals.

(b) A written opinion, order, or decision of the Intermediate Court of Appeals is binding precedent for the decisions of all circuit courts, family courts, magistrate courts, and agencies that lie within the court's district unless the opinion, order, or decision is overruled or modified by the Supreme Court of Appeals.

§51-11-13. Discretionary review by Supreme Court of Appeals by petition.

(a) A party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals.

(b) Upon the proper filing of a notice of appeal in the Supreme Court of Appeals, the order or judgment of the Intermediate Court of Appeals may be stayed pending the appeal, in accordance with rules promulgated by the Supreme Court of Appeals.

(c) The Supreme Court of Appeals has discretion to grant or deny the petition for appeal or certiorari of a decision by the Intermediate Court of Appeals.

(d) Any party who seeks to appeal a final order or judgment of the Intermediate Court of Appeals to the Supreme Court of Appeals, pursuant to this section, and who does not substantially prevail on said appeal, shall pay a post judgment interest rate on the underlying order or judgment from the circuit court in an amount double that authorized by §56-6-31 of this code from the

date of the filing of the petition, pursuant to subsection (b) of this section, until the judgment is paid.

§51-11-14. Judicial compensation and benefits; expenses.

(a) The annual salary of a judge of the Intermediate Court of Appeals is \$130,000. The budget for the payment of compensation and expenses of Intermediate Court of Appeals judges shall be included in the appropriation for the Supreme Court of Appeals.

(b) Intermediate Court of Appeals judges and staff shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under the guidelines prescribed by the Administrative Director of the Supreme Court of Appeals.

CHAPTER 58. APPEAL AND ERROR.

ARTICLE 5. APPELLATE RELIEF IN THE INTERMEDIATE COURT OF APPEALS AND THE SUPREME COURT OF APPEALS.

§58-5-1. When appeal lies.

(a) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties: *Provided*, That an appeal of a final order or judgment of a circuit court entered after December 31, 2022, shall be to the Intermediate Court of Appeals, as required by §51-11-1 *et seq.* of this code.

(b) As provided in §51-11-13 of this code, a party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals.

(c) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction, or which affirms a conviction obtained in an inferior court.”

Delegate Zukoff moved to amend the amendment, on page thirty-six, section one, after line nine, by inserting the following:

“CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-102. Procedure for appealing decisions.

Cases under this chapter, if tried in any inferior court, may be reviewed by writ of error or appeal to the circuit court, and if tried or reviewed in a circuit court, by writ of error or appeal to the Supreme Court of Appeals. After December 31, 2022, the direct right of appeal for any matter tried or reviewed in a circuit court pursuant to this chapter shall be transferred to the Intermediate Court of Appeals, and any such appeal must be initiated by petition or appeal to the Intermediate Court of Appeals..

§49-4-710. Waiver and transfer of jurisdiction.

(a) Upon written motion of the prosecuting attorney filed at least eight days prior to the adjudicatory hearing and with reasonable notice to the juvenile, his or her counsel, and his or her parents, guardians or custodians, the court shall conduct a hearing to determine if juvenile jurisdiction should or must be waived and the proceeding transferred to the criminal jurisdiction of the court. Any motion filed in accordance with this section is to state, with particularity, the grounds for the requested transfer, including the grounds relied upon as set forth in subsection (d), (e), (f) or (g) of this section, and the burden is upon the state to establish the grounds by clear and convincing evidence. Any hearing held under this section is to be held within seven days of the filing of the motion for transfer unless it is continued for good cause.

(b) No inquiry relative to admission or denial of the allegations of the charge or the demand for jury trial may be made by or before

the court until the court has determined whether the proceeding is to be transferred to criminal jurisdiction.

(c) The court shall transfer a juvenile proceeding to criminal jurisdiction if a juvenile who has attained the age of fourteen years makes a demand on the record to be transferred to the criminal jurisdiction of the court. The case may then be referred to magistrate or circuit court for further proceedings, subject to the court's jurisdiction.

(d) The court shall transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that:

(1) The juvenile is at least fourteen years of age and has committed the crime of treason under §61-1-1 of this code; the crime of murder under sections §61-2-1, §61-2-2, and §61-2-3 of this code; the crime of robbery involving the use or presenting of firearms or other deadly weapons under §61-2-12 of this code; the crime of kidnapping under §61-2-14a of this code; the crime of first degree arson under §61-2-1 of this code; or the crime of sexual assault in the first degree under section §61-8b-3 of this code;

(2) The juvenile is at least fourteen years of age and has committed an offense of violence to the person which would be a felony if the juvenile was an adult. However, the juvenile has been previously adjudged delinquent for the commission of an offense of violence to the person which would be a felony if the juvenile was an adult; or

(3) The juvenile is at least fourteen years of age and has committed an offense which would be a felony if the juvenile was an adult. However, the juvenile has been twice previously adjudged delinquent for the commission of an offense which would be a felony if the juvenile was an adult.

(e) The court may transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that the juvenile would otherwise satisfy the provisions of subdivision (1), subsection (d) of this section, but who is younger than fourteen years of age.

(f) The court may, upon consideration of the juvenile's mental and physical condition, maturity, emotional attitude, home or family environment, school experience and similar personal factors, transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that the juvenile would otherwise satisfy the provisions of subdivision (2) or (3), subsection (d) of this section, but who is younger than fourteen years of age.

(g) The court may, upon consideration of the juvenile's mental and physical condition, maturity, emotional attitude, home or family environment, school experience and similar personal factors, transfer a juvenile proceeding to criminal jurisdiction if there is probable cause to believe that:

(1) The juvenile, who is at least fourteen years of age, has committed an offense of violence to a person which would be a felony if the juvenile was an adult;

(2) The juvenile, who is at least fourteen years of age, has committed an offense which would be a felony if the juvenile was an adult. However, the juvenile has been previously adjudged delinquent for the commission of a crime which would be a felony if the juvenile was an adult;

(3) The juvenile, who is at least fourteen years of age, used or presented a firearm or other deadly weapon during the commission of a felony; or

(4) The juvenile has committed a violation of §61A-4-401 of this code which would be a felony if the juvenile was an adult involving the manufacture, delivery or possession with the intent to deliver a narcotic drug. For purposes of this subdivision, the term narcotic drug has the same definition as that set forth in section one hundred one, article one of that chapter;

(5) The juvenile has committed the crime of second degree arson as defined in §61A-3-2 of this code involving setting fire to or burning a public building or church. For purposes of this subdivision, the term public building means a building or structure of any nature owned, leased or occupied by this state, a political

subdivision of this state or a county board of education and used at the time of the alleged offense for public purposes. For purposes of this subdivision, the term church means a building or structure of any nature owned, leased or occupied by a church, religious sect, society or denomination and used at the time of the alleged offense for religious worship or other religious or benevolent purpose, or as a residence of a minister or other member of clergy.

(h) For purposes of this section, the term offense of violence means an offense which involves the use or threatened use of physical force against a person.

(i) If, after a hearing, the court directs the transfer of any juvenile proceeding to criminal jurisdiction, it shall state on the record the findings of fact and conclusions of law upon which its decision is based or shall incorporate findings of fact and conclusions of law in its order directing transfer.

(j) A juvenile who has been transferred to criminal jurisdiction pursuant to subsection (e), (f) or (g) of this section, by an order of transfer, has the right to either directly appeal an order of transfer ~~to the supreme court of appeals~~ or to appeal the order of transfer following a conviction of the offense of transfer. On or before December 31, 2022, any appeal under this section shall be directed to the Supreme Court of Appeals. On and after January 1, 2023, any appeal under this section shall be directed to the Intermediate Court of Appeals. If the juvenile exercises the right to a direct appeal from an order of transfer, the notice of intent to appeal and a request for transcript is to be filed within ten days from the date of the entry of any order of transfer, and the petition for appeal is to be presented to the ~~Supreme Court of Appeals~~ appropriate appellate court within forty-five days from the entry of the order of transfer. Article five, chapter fifty-eight of this code pertaining to the appeals of judgments in civil actions applies to appeals under this chapter except as modified in this section. The court may, within forty-five days of the entry of the order of transfer, by appropriate order, extend and reextend the period in which to file the petition for appeal for additional time, not to exceed a total extension of sixty days, as in the court's opinion may be necessary for preparation of the transcript. However, the request for a

transcript was made by the party seeking appeal within ten days of entry of the order of transfer. In the event any notice of intent to appeal and request for transcript be timely filed, proceedings in criminal court are to be stayed upon motion of the defendant pending final action of the ~~Supreme Court of Appeals~~ appropriate appellate court.

§49-4-712. Intervention and services by the department pursuant to initial disposition for status offenders; enforcement; further disposition; detention; out-of-home placement; department custody; least restrictive alternative; appeal; prohibiting placement of status offenders in a Division of Juvenile Services facility on or after January 1, 2016.

(a) The services provided by the department for juveniles adjudicated as status offenders shall be consistent with part ten, article two of this chapter and shall be designed to develop skills and supports within families and to resolve problems related to the juveniles or conflicts within their families. Services may include, but are not limited to, referral of juveniles and parents, guardians or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, educational or other social services, as appropriate to the needs of the juvenile and his or her family.

(b) If the juvenile, or his or her parent, guardian or custodian, fails to comply with the services provided in subsection (a) of this section, the department may petition the circuit court:

(1) For a valid court order, as defined in section two hundred seven, article one of this chapter, to enforce compliance with a service plan or to restrain actions that interfere with or defeat a service plan; or

(2) For a valid court order to place a juvenile out of home in a nonsecure or staff-secure setting, and/or to place a juvenile in custody of the department: *Provided*, That a juvenile adjudicated as a status offender may not be placed in an out-of-home placement, excluding placements made for abuse and neglect, if

that juvenile has had no prior adjudications for a status or delinquency offense, or no prior disposition to a pre-adjudicatory improvement period or probation for the current matter: *Provided, however,* That if the court finds by clear and convincing evidence the existence of a significant and likely risk of harm to the juvenile, a family member or the public and continued placement in the home is contrary to the best interests of the juvenile, such juvenile may be ordered to an out-of-home placement: *Provided further,* That the court finds the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that such reasonable efforts are not required due to an emergent situation.

(c) In ordering any further disposition under this section, the court is not limited to the relief sought in the department's petition and shall make reasonable efforts to prevent removal of the juvenile from his or her home or, as an alternative, to place the juvenile in a community-based facility which is the least restrictive alternative appropriate to the needs of the juvenile and the community. The disposition may include reasonable and relevant orders to the parents, guardians or custodians of the juvenile as is necessary and proper to effectuate the disposition.

(d) (1) If the court finds that placement in a residential facility is necessary to provide the services under subsection (a) of this section, except as prohibited by subdivision (2), subsection (b) of this section, the court shall make findings of fact as to the necessity of this placement, stated on the record or reduced to writing and filed with the record or incorporated into the order of the court.

(2) The findings of fact shall include the factors that indicate:

(A) The likely effectiveness of placement in a residential facility for the juvenile; and

(B) The community services which were previously attempted.

(e) The disposition of the juvenile may not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. ~~Any~~ On or before December 31, 2022, any order providing

disposition other than mandatory referral to the department for services is subject to appeal to the Supreme Court of Appeals. On and after January 1, 2023, any such appeal shall be filed with the Intermediate Court of Appeals.

(f) Following any further disposition by the court, the court shall inquire of the juvenile whether or not appeal is desired and the response shall be transcribed; a negative response may not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel, if it is requested for purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(g) A juvenile adjudicated solely as a status offender on or after January 1, 2016, may not be placed in a Division of Juvenile Services facility.

§49-4-714. Disposition of juvenile delinquents; appeal.

(a) In aid of disposition of juvenile delinquents, the juvenile probation officer assigned to the juvenile shall, upon request of the court, make an investigation of the environment of the juvenile and the alternative dispositions possible. The court, upon its own motion, or upon request of counsel, may order the use of a standardized screener, as defined in §49-1-206 of this code or, if additional information is necessary, a psychological examination of the juvenile. The report of an examination and other investigative and social reports shall not be relied upon the court in making a determination of adjudication. Unless waived, copies of the report shall be provided to counsel for the petitioner and counsel for the juvenile no later than 72 hours prior to the dispositional hearing.

(b) Following the adjudication, the court shall receive and consider the results of a needs assessment, as defined in §49-1-206 of this code, and shall conduct the disposition, giving all parties an opportunity to be heard. The disposition may include reasonable and relevant orders to the parents, custodians or guardians of the juvenile as is necessary and proper to effectuate the disposition. At disposition the court shall not be limited to the relief sought in the

petition and shall, in electing from the following alternatives, consider the best interests of the juvenile and the welfare of the public:

(1) Dismiss the petition;

(2) Refer the juvenile and the juvenile's parent or custodian to a community agency for needed assistance and dismiss the petition;

(3) Upon a finding that the juvenile is in need of extra-parental supervision: (A) Place the juvenile under the supervision of a probation officer of the court or of the court of the county where the juvenile has his or her usual place of abode or other person while leaving the juvenile in custody of his or her parent or custodian; and (B) prescribe a program of treatment or therapy or limit the juvenile's activities under terms which are reasonable and within the child's ability to perform, including participation in the litter control program established pursuant to §22-15A-3 of this code or other appropriate programs of community service;

(4) Upon a finding that a parent or custodian is not willing or able to take custody of the juvenile, that a juvenile is not willing to reside in the custody of his or her parent or custodian or that a parent or custodian cannot provide the necessary supervision and care of the juvenile, the court may place the juvenile in temporary foster care or temporarily commit the juvenile to the department or a child welfare agency. The court order shall state that continuation in the home is contrary to the best interest of the juvenile and why; and whether or not the department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 *et seq.* of this code and guidelines promulgated by the Supreme Court of Appeals;

(5) (A) Upon a finding that the best interests of the juvenile or the welfare of the public require it, and upon an adjudication of delinquency, the court may commit the juvenile to the custody of the Director of the Division of Corrections and Rehabilitation for

placement in a juvenile services facility for the treatment, instruction and rehabilitation of juveniles. The court maintains discretion to consider alternative sentencing arrangements.

(B) Notwithstanding any provision of this code to the contrary, in the event that the court determines that it is in the juvenile's best interests or required by the public welfare to place the juvenile in the custody of the Division of Corrections and Rehabilitation, the court shall provide the Division of Corrections and Rehabilitation with access to all relevant court orders and records involving the underlying offense or offenses for which the juvenile was adjudicated delinquent, including sentencing and presentencing reports and evaluations, and provide the division with access to school records, psychological reports and evaluations, needs assessment results, medical reports and evaluations or any other such records as may be in the court's possession as would enable the Division of Corrections and Rehabilitation to better assess and determine the appropriate counseling, education and placement needs for the juvenile offender.

(C) Commitments may not exceed the maximum term for which an adult could have been sentenced for the same offense and any such maximum allowable term of confinement to be served in a juvenile correctional facility shall take into account any time served by the juvenile in a detention center pending adjudication, disposition or transfer. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible; or

(6) After a hearing conducted under the procedures set out in §27-5-4(c) and §27-5-4(d) of this code, commit the juvenile to a mental health facility in accordance with the juvenile's treatment plan; the director of the mental health facility may release a juvenile and return him or her to the court for further disposition. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement

or that the emergency situation made those efforts unreasonable or impossible.

The court shall make all reasonable efforts to place the juvenile in the least restrictive alternative appropriate to the needs of the juvenile and the community: *Provided*, That a juvenile adjudicated delinquent for a nonviolent misdemeanor offense may not be placed in an out-of-home placement within the Division of Corrections and Rehabilitation or the department if that juvenile has no prior adjudications as either a status offender or as a delinquent, or no prior dispositions to a pre-adjudicatory improvement period or probation for the current matter, excluding placements made for abuse or neglect: *Provided, however*, That if the court finds by clear and convincing evidence that there is a significant and likely risk of harm, as determined by a needs assessment, to the juvenile, a family member or the public and that continued placement in the home is contrary to the best interest of the juvenile, such juvenile may be ordered to an out-of-home placement: *Provided further*, That the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that reasonable efforts are not required due to an emergent situation.

(c) In any case in which the court decides to order the juvenile placed in an out-of-state facility or program, it shall set forth in the order directing the placement the reasons the juvenile was not placed in an in-state facility or program.

(d) The disposition of the juvenile shall not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. ~~Any~~ On and before December 31, 2022, any disposition is subject to appeal to the Supreme Court of Appeals. On and after January 1, 2023, any such appeal must be filed with the Intermediate Court of Appeals.

(e) Following disposition, the court shall inquire whether the juvenile wishes to appeal and the response shall be transcribed; a negative response shall not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel, if the same is requested for

purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(f) Following a disposition under §49-4-714(b)(4), §49-4-714(b)(5), or §49-4-714(b)(6) of this code, the court shall include in the findings of fact the treatment and rehabilitation plan the court has adopted upon recommendation of the multidisciplinary team under §49-4-406 of this code.

(g) Notwithstanding any other provision of this code to the contrary, if a juvenile charged with delinquency under this chapter is transferred to adult jurisdiction and there tried and convicted, the court may make its disposition in accordance with this section in lieu of sentencing the person as an adult.”

On page forty, section five, line nine, immediately following the end of subsection three, by inserting the following additional subsection:

“(4) Final orders or decisions of a circuit court pertaining to child welfare under Chapter 49, Article 4, entered after December 31, 2022.”

And renumbering the remaining subdivisions accordingly.

And,

On page forty-one, section five, lines twenty-seven through thirty, by striking out the provisions of subdivisions one and two in their entirety, and renumbering the remaining subdivisions accordingly.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 595**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Atkinson, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Capito, Cooper, Cowles, Criss, Ellington, Espinosa,

Foster, Graves, Hamrick, Hardy, Higginbotham, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Linville, Little, Mandt, C. Martin, Maynard, Nelson, Pack, Phillips, Porterfield, Queen, Rowan, Shott, Steele, Storch, Summers, Toney, Waxman, Westfall, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Kump.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

Delegate Lovejoy moved to amend the amendment, on page thirty-nine and forty, section four, lines twenty through twenty-six, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

“(d) The proceedings of the West Virginia Intermediate Court of Appeals may take place in any location geographically located within the district the court serves that is convenient to litigants, in a facility provided by the clerk pursuant to §51-11-10 of this code.”

On the adoption of the amendment, the yeas and nays were demanded which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 596**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Atkinson, Azinger, Barnhart, Bartlett, Bates, Bibby, Capito, Cooper, Cowles, Criss, Dean, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Little, Mandt, Maynard, Nelson, Pack, Phillips, Queen, Rowan, Shott, Steele, Storch, Summers, Sypolt, Toney, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Kump.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

Pursuant to House Rule 58, Delegate Wilson having voted on the prevailing side on the vote regarding the adoption of the amendment offered by Delegate Zukoff, moved that the vote be reconsidered.

On this question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 597**), and there were—yeas 45, nays 54, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Cowles, Criss, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, Kessinger, Linville, Little, Mandt, Maynard, Nelson, Pack, Phillips, Queen, Rowan, Shott, Steele, Storch, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Kump.

So, a majority of the members present and voting not having voted in the affirmative, the motion to reconsider the vote by which the House adopted the amendment by Delegate Zukoff did not prevail.

Delegate Steele moved to amend the amendment on page forty-seven, after section fourteen, by inserting a new section, designated section fifteen, to read as follows:

“§51-11-15. Attorney General as counsel for state.

The Attorney General shall appear as counsel for the state in all cases pending in the Intermediate Court of Appeals, subject to the same requirements and restrictions provided in §5-3-2 of this code that apply to the Attorney General’s representation of the state in cases pending in the Supreme Court of Appeals.”

And,

On pages forty-seven and forty-eight, lines one through thirteen, by striking out all of section one, and inserting in lieu thereof a new section one, to read as follows:

§58-50-1. When appeal lies.

(a) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties: Provided, That an appeal of a final order or judgment of a circuit court entered after June 30, 2021, shall be to the Intermediate Court of Appeals, as required by §51-11-1, et seq. of this code.

(b) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction, or which affirms a conviction obtained in an inferior court: Provided, That an appeal of a final order or judgment of a circuit court entered after June 30, 2021, shall be to the Intermediate Court of Appeals, as required by §51-11-1, et seq. of this code.

(c) As provided in §51-11-13 of this code, a party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals.”

Delegate Steele then obtained unanimous consent that the amendment be reformed, as follows:

On page forty-seven, after section fourteen, by inserting a new section, designated section fifteen, to read as follows:

“§51-11-15. Attorney General as counsel for state.

The Attorney General shall appear as counsel for the state in all cases pending in the Intermediate Court of Appeals, subject to

the same requirements and restrictions provided in §5-3-2 of this code that apply to the Attorney General's representation of the state in cases pending in the Supreme Court of Appeals."

And,

On pages forty-seven and forty-eight, lines one through thirteen, by striking out all of section one, and inserting in lieu thereof a new section one, to read as follows:

"§58-50-1. When appeal lies.

(a) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties: Provided, That an appeal of a final order or judgment of a circuit court entered after June 30, 2021, shall be to the Intermediate Court of Appeals, as required by §51-11-1, et seq. of this code.

(b) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction, or which affirms a conviction obtained in an inferior court: Provided, That an appeal of a final order or judgment of a circuit court entered after June 30, 2021, shall be to the Intermediate Court of Appeals, as required by §51-11-1, et seq. of this code.

(c) As provided in §51-11-13 of this code, a party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 598**), and there were—yeas 54, nays 45, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, P. Martin, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Kump.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

The Committee on Finance amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 278, Providing various methods to deal with defendant who becomes incompetent during trial; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk, amending the bill on page one, after the enacting clause, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. WORDS AND PHRASES DEFINED.

§27-1-11. Addiction.

(a) As used in this chapter, ‘addiction’ or substance use disorder means a maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring within 30 days prior to the filing of the petition:

(1) Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home, including, but not limited to, repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; or neglect of children or household;

(2) Recurrent use in situations in which it is physically hazardous, including, but not limited to, driving while intoxicated or operating a machine when impaired by substance use;

(3) Recurrent substance-related legal problems; or

(4) Continued use despite knowledge or having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

(b) As used in this section, ‘substance’ ~~shall mean~~ means alcohol, controlled substances as defined in sections §60A-2-204, §60A-2-206, §60A-2-208, and §60A-2-210 of this code, or anything consumed for its psychoactive effect whether or not designed for human consumption.

ARTICLE 5. INVOLUNTARY HOSITALIZATION.

§27-5-1. Appointment of mental hygiene commissioner; duties of mental hygiene commissioner; duties of prosecuting attorney; duties of sheriff; duties of Supreme Court of Appeals; use of certified municipal law-enforcement officers.

(a) *Appointment of mental hygiene commissioners.* — The chief judge in each judicial circuit of this state shall appoint a competent attorney and may, if necessary, appoint additional attorneys to serve as mental hygiene commissioners to preside over involuntary hospitalization hearings. Mental hygiene commissioners shall be persons of good moral character and of standing in their profession and they shall, before assuming the duties of ~~such a~~ a commissioner, take the oath required of other special commissioners as provided in §6-1-1 *et seq.* of this code.

Prior to presiding over an involuntary hospitalization hearing, each ~~All persons~~ newly appointed person to serve as a mental hygiene commissioner and all magistrates shall attend and complete an orientation course ~~that, within one year of their appointment, consisting~~ consists of training provided annually by the Supreme Court of Appeals and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. In addition, existing mental hygiene commissioners and ~~any~~ all magistrates ~~designated by the chief judge of a judicial circuit~~ trained to hold probable cause and emergency detention hearings involving involuntary hospitalization shall attend and complete a course provided by the Supreme Court of Appeals and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. Persons attending ~~such~~ the courses outside the county of their residence shall be reimbursed out of the budget of the Supreme Court—General Judicial for reasonable expenses incurred. The Supreme Court of Appeals shall establish curricula and rules for ~~such~~ the courses, including rules providing for the reimbursement of reasonable expenses as authorized ~~herein~~ in this section. The Secretary of the Department of Health and Human Resources shall consult with the Supreme Court of Appeals regarding the development of the orientation program.

(b) *Duties of mental hygiene commissioners.* —

(1) Mental hygiene commissioners may sign and issue summonses for the attendance, at any hearing held pursuant to §27-5-4 of this code, of the individual sought to be committed; may sign and issue subpoenas for witnesses, including subpoenas duces tecum; may place any witness under oath; may elicit testimony from applicants, respondents, and witnesses regarding factual issues raised in the petition; and may make findings of fact on evidence and may make conclusions of law, but ~~such~~ the findings and conclusions ~~shall not be~~ are not binding on the circuit court. All mental hygiene commissioners shall be reasonably compensated at a uniform rate determined by the Supreme Court of Appeals. Mental hygiene commissioners shall submit all requests for compensation to the administrative director of the

courts for payment. Mental hygiene commissioners shall discharge their duties and hold their offices at the pleasure of the chief judge of the judicial circuit in which he or she is appointed and may be removed at any time by ~~such~~ the chief judge. ~~It shall be the duty of a~~ A mental hygiene commissioner ~~to~~ shall conduct orderly inquiries into the mental health of the individual sought to be committed concerning the advisability of committing the individual to a mental health facility. The mental hygiene commissioner shall safeguard, at all times, the rights and interests of the individual as well as the interests of the state. The mental hygiene commissioner shall make a written report of his or her findings to the circuit court. In any proceedings before any court of record as set forth in this article, the court of record shall appoint an interpreter for any individual who is deaf or cannot speak, or who speaks a foreign language, and who may be subject to involuntary commitment to a mental health facility.

(2) A mental hygiene commissioner appointed by the circuit court of one county or multiple county circuits may serve in ~~such~~ that capacity in a jurisdiction other than that of his or her original appointment if ~~such~~ be it is agreed upon by the terms of a cooperative agreement between the circuit courts and county commissions of two or more counties entered into to provide prompt resolution of mental hygiene matters during ~~noncourt~~ when the courthouse is closed or on nonjudicial days.

(c) *Duties of prosecuting attorney.* — ~~It shall be the duty of the~~ The prosecuting attorney or one of his or her assistants ~~to~~ shall represent the applicants in all final commitment proceedings filed pursuant to the provisions of this article. The prosecuting attorney may appear in any proceeding held pursuant to the provisions of this article if he or she ~~deems~~ determines it to be in the public interest.

(d) *Duties of sheriff.* — Upon written order of the circuit court, mental hygiene commissioner, or magistrate in the county where the individual formally accused of being mentally ill or ~~addicted~~ having a substance use disorder is a resident or is found, the sheriff of that county shall take ~~said~~ the individual into custody and transport him or her to and from the place of hearing and the mental

health facility. The sheriff shall also maintain custody and control of the accused individual during the period of time in which the individual is waiting for the involuntary commitment hearing to be convened and while ~~such~~ the hearing is being conducted: *Provided*, That an individual who is a resident of a state other than West Virginia shall, upon a finding of probable cause, be transferred to his or her state of residence for treatment pursuant to §27-5-4(p) of this code: *Provided, however*, That where an individual is a resident of West Virginia but not a resident of the county in which he or she is found and there is a finding of probable cause, the county in which the hearing is held may seek reimbursement from the county of residence for reasonable costs incurred by the county attendant to the mental hygiene proceeding. Notwithstanding any provision of this code to the contrary, sheriffs may enter into cooperative agreements with sheriffs of one or more other counties, with the concurrence of their respective circuit courts and county commissions, ~~whereby~~ by which transportation and security responsibilities for hearings held pursuant to the provisions of this article during ~~noncourt~~ hours when the courthouse is closed or on nonjudicial days may be shared in order to facilitate prompt hearings and to effectuate transportation of persons found in need of treatment. In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff shall contact the state hospital in advance of the transportation to determine if the state hospital has available suitable bed capacity to place the individual.

(e) *Duty of sheriff upon presentment to mental health care facility.* — When a person is brought to a mental health care facility for purposes of evaluation for commitment under this article, if he or she is violent or combative, the sheriff or his or her designee shall maintain custody of the person in the facility until the evaluation is completed, or the county commission shall reimburse the mental health care facility at a reasonable rate for security services provided by the mental health care facility for the period of time the person is at the hospital prior to the determination of mental competence or incompetence.

(f) *Duties of Supreme Court of Appeals.* — The Supreme Court of Appeals shall provide uniform petition, procedure, and order forms which shall be used in all involuntary hospitalization proceedings brought in this state.

(g) *Duties of the Department of Health and Human Resources.* — The secretary shall develop an orientation program as provided in subsection (a) of this section. The orientation program shall include, but not be limited to, instruction regarding the nature and treatment of mental illness and substance use disorder; the goal and purpose of commitment; community-based treatment options; and less restrictive alternatives to inpatient commitment.

§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined ~~is addicted,~~ has a substance use disorder as defined in § 27-1-11 of this code, by the most recent edition of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, inclusive of substance use withdrawal, or is mentally ill and, because of his or her ~~addiction~~ substance use disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician, ~~or~~ psychologist, licensed professional counselor, licensed independent social worker, an advanced nurse practitioner, or physician assistant as provided in subsection (e) of this section: *Provided, That a diagnosis of dementia alone may not serve as a basis for involuntary commitment.*

Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application, and the application must include the additional statement that the correctional facility

itself cannot reasonably provide treatment and other services for the individual's mental illness or ~~addiction~~ substance use disorder.

(b) The person making the application shall make the application under oath.

(c) Application for involuntary custody for examination may be made to the circuit court, magistrate court, or a mental hygiene commissioner of the county in which the individual resides or of the county in which he or she may be found. ~~When no circuit court judge or mental hygiene commissioner is available for immediate presentation of the application, the application may be made to a magistrate designated by the chief judge of the judicial circuit to accept applications and hold probable cause hearings.~~ A designated magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application ~~as may be~~ required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or ~~designated~~ magistrate may enter an order for the individual named in the application to be detained and taken into custody for the purpose of holding a probable cause hearing as provided in §27-5-2(g) of this code for the purpose of an examination of the individual by a physician, psychologist, a licensed professional counselor practicing in compliance with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, a physician's assistant practicing in compliance with §30-3-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code: *Provided*, That a licensed professional counselor, a licensed

independent clinical social worker, a physician's assistant, or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or ~~addiction~~ substance use disorder sufficient to make the determinations ~~as are~~ required by the provisions of this section. The examination is to be provided or arranged by a community mental health center designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the hearing be held ~~forthwith~~ immediately and is to provide for the appointment of counsel for the individual: *Provided, however,* That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than ~~forthwith~~ immediately if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons: *Provided further,* That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or in the event of a medical or psychiatric emergency, the individual may receive treatment. The medical provider shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, "psychiatric emergency" means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has,

within the preceding 72 hours, performed the examination required by the provisions of this subsection, the community mental health center may waive the duty to perform or arrange another examination upon approving the previously performed examination. Notwithstanding the provisions of this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has no substance use disorder, or is determined to be mentally ill or ~~addicted~~ has a substance use disorder but not likely to cause harm to himself, herself, or others, the individual shall be immediately released without the need for a probable cause hearing and the examiner is not civilly liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately provide the mental hygiene commissioner, circuit court, or ~~designated~~ magistrate before whom the matter is pending the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing is to be held before a magistrate, ~~designated by the chief judge of the judicial circuit~~, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours.

The individual must be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and ~~to~~ examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is reliably predictable that deterioration will occur without

clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself or herself or to others.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: Use videoconferencing and telephonic technology; permit persons hospitalized for ~~addiction~~ substance use disorder to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article. The alternative or modified procedures shall fully and effectively guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or a mental hygiene commissioner or circuit judge at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself, herself, or others and because of mental illness or ~~addiction~~ a substance use disorder requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is reliably predictable that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, it is likely to cause serious harm to himself or herself or others. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If

the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or addiction substance use disorder remains likely to cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to the provisions of §27-5-3 of this code may be entered. ~~In the event a person released pursuant to a voluntary treatment agreement is unable to pay for the outpatient treatment and has no applicable insurance coverage, including, but not limited to, private insurance or Medicaid, the Secretary of the Department of Health and Human Resources may transfer funds for the purpose of reimbursing community providers for services provided on an outpatient basis for individuals for whom payment for treatment is the responsibility of the department: *Provided*, That the department may not authorize payment of outpatient services for an individual subject to a voluntary treatment agreement in an amount in excess of the cost of involuntary hospitalization of the individual. The secretary shall establish and maintain fee schedules for outpatient treatment provided in lieu of involuntary hospitalization.~~ Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment, or as obligating any person or agency to provide outpatient services or treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided*, That release pursuant to a voluntary treatment agreement may not be for

a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.

Notwithstanding anything in this article to the contrary, the commitment of any individual as provided in this article shall be in the least restrictive setting and in an outpatient community-based treatment program to the extent resources and programs are available, unless the clear and convincing evidence of the certifying professional under subsection (e) of this section, who is acting in a manner consistent with the standard of care, establishes that the commitment or treatment of that individual requires an inpatient hospital placement. Outpatient treatment will be based upon a plan jointly prepared by the department and the comprehensive community mental health center or licensed behavioral health provider.

(i) If the certifying ~~physician or psychologist~~ professional determines that ~~a person~~ an individual requires involuntary hospitalization for a ~~an addiction to a substance~~ substance use disorder which, due to the degree of ~~addiction~~ the disorder, creates a reasonable likelihood that withdrawal or detoxification ~~from the substance of addiction~~ will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible medical complications. If the magistrate, mental hygiene

commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

§27-5-2a. Process for involuntary hospitalization.

(a) As used in this section:

(1) ‘Addiction’ has the same meaning as the term is defined in §27-1-11 of this code.

(2) ‘Authorized staff physician’ means a physician, authorized pursuant to the provisions of §30-3-1 et seq. or §30-14-1 et seq. of this code, who is a bona fide member of the hospital’s medical staff.

(3) ‘Hospital’ means a facility licensed pursuant to the provisions of §16-5b-1 et seq. of this code, and any acute care facility operated by the state government that primarily provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick individuals under the supervision of physicians.

(4) ‘Psychiatric emergency’ means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others.

(b)(1) If a mental hygiene commissioner, magistrate, and circuit judge are unavailable or unable to be immediately

contacted, an authorized staff physician may order the involuntary hospitalization of an individual who is present at, or presented at, a hospital emergency department in need of treatment, if the authorized staff physician believes, following an examination of the individual, that the individual is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself or to others if allowed to remain at liberty. The authorized staff physician shall sign a statement attesting to his or her decision that the patient presents a harm to himself, herself or others and needs to be held involuntarily for up to 72 hours. The West Virginia Supreme Court of Appeals is requested to generate a form for the statement to be signed by the authorized staff physician or other person authorized by the hospital and provided to the individual.

(2) Immediately upon admission, or as soon as practicable thereafter, but in no event later than 24 hours after an involuntary hospitalization pursuant to this section, the authorized staff physician or designated employee shall file a mental hygiene petition in which the authorized staff physician certifies that the individual for whom the involuntary hospitalization is sought is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself, or to other individuals if allowed to remain at liberty. The authorized staff physician shall also certify the same in the individual's health records. Upon receipt of this filing, the mental hygiene commissioner, a magistrate, or circuit judge shall conduct a hearing pursuant to §27-5-2 of this code.

(3) An individual who is involuntarily hospitalized pursuant to this section shall be released from the hospital within 72 hours, unless further detained under the applicable provisions of this article.

(c) During a period of involuntary hospitalization authorized by this section, upon consent of the individual, or in the event of a medical or psychiatric emergency, the individual may receive treatment. The hospital or authorized staff physician shall exercise due diligence in determining the individual's existing medical

needs and provide treatment the individual requires, including previously prescribed medications.

(d) Each hospital or authorized staff physician which provides services under this section shall be paid for the services at the same rate the hospital or authorized staff physician negotiates with the patient's insurer. If the patient is uninsured, the hospital or authorized staff physician may file a claim for payment with the West Virginia Legislative Claims Commission in accordance with §14-2-1 et seq. of this code.

(e) Authorized staff physicians and hospitals and their employees carrying out duties or rendering professional opinions as provided in this section shall be free from liability for their actions, if the actions are performed in good faith and within the scope of their professional duties and in a manner consistent with the standard of care.

(f) The West Virginia Supreme Court of Appeals is requested, by no later than July 1, 2020, to provide each hospital with a list of names and contact information of the mental hygiene commissioners, magistrates, and circuit judges to address mental hygiene petitions in the county where the hospital is located. The West Virginia Supreme Court of Appeals is requested to update this list regularly and the list shall reflect on-call information. If a mental hygiene commissioner, county magistrate, or circuit judge does not respond to the request within 24 hours, a report shall be filed to the West Virginia Supreme Court of Appeals.

(g) An action taken against an individual pursuant to this section may not be construed to be an adjudication of the individual, nor shall any action taken pursuant to this section be construed to satisfy the requirements of §61-7-7(a)(4) of this code.

§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.

(a) Admission to a mental health facility for examination. — Any individual may be admitted to a mental health facility for examination and treatment upon entry of an order finding probable

cause as provided in §27-5-2 of this code ~~and upon a finding by a licensed physician that the individual is medically stable, and~~ upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 *et seq.* of this code, ~~or an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code with advanced duties in psychiatric medicine~~ that he or she has examined the individual and is of the opinion that the individual is mentally ill or ~~addicted~~ has a substance use disorder and, because of ~~such the~~ the mental illness or addiction substance use disorder, is likely to cause serious harm to himself, herself, or to others if not immediately restrained: *Provided*, That the opinions offered by an independent clinical social worker, ~~or an advanced nurse practitioner with psychiatric certification, or a physician's assistant with advanced duties in psychiatric medicine~~ must be within ~~their~~ his or her particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination.* — If the examination does not take place within three days from the date the individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has a substance use disorder, the individual shall be released.

(c) *Three-day time limitation on certification.* — The certification required in §27-5-3(a) of this code ~~shall be~~ is valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification.* — A certification under this section must include findings and conclusions of the mental examination, the date, time, and place of the examination, and the facts upon which the conclusion that involuntary commitment is necessary is based.

(e) *Notice requirements.* — When an individual is admitted to a mental health facility or a state hospital pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) ~~Five-day~~ *Three-day time limitation for examination and certification at mental health facility or state hospital.* — After the individual's admission to a mental health facility or state hospital, he or she may not be detained more than ~~five~~ three days, excluding Sundays and holidays, unless, within the period, the individual is examined by a staff physician and the physician certifies that in his or her opinion the patient is mentally ill or ~~addicted~~ has a substance use disorder and is likely to injure himself, herself, or others if allowed to be at liberty. In the event the staff physician determines that the individual does not meet the criteria for continued commitment, that the individual can be treated in an available outpatient community-based treatment program and poses no present danger to himself, herself or others, or that the individual has an underlying medical issue or issues that resulted in a determination that the individual should not have been committed, the staff physician shall release and discharge the individual as appropriate as soon as practicable.

(g) ~~Fifteen-day~~ *Ten-day time limitation for institution of final commitment proceedings.* — If, in the opinion of the examining physician, the patient is mentally ill or ~~addicted~~ has a substance use disorder and because of the mental illness or ~~addiction~~ substance use disorder is likely to injure himself, herself, or others if allowed to be at liberty, the chief medical officer shall, within ~~45~~ 10 days from the date of admission, institute final commitment proceedings

as provided in §27-5-4 of this code. If the proceedings are not instituted within ~~such 15-day~~ the 10-day period, the ~~patient~~ individual shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) ~~Thirty-day~~ Twenty-day *time limitation for conclusion of all proceedings.* — If all proceedings as provided in §27-3-1 *et seq.* and §27-4-1 *et seq.* of this code are not completed within ~~30~~ 20 days from the date of institution of the proceedings, the ~~patient~~ individual shall be immediately released.

§27-5-4. Institution of final commitment proceedings; hearing requirements; release.

(a) *Involuntary commitment.* — Except as provided in §27-5-3 of this code, no individual may be involuntarily committed to a mental health facility or state hospital except by order entered of record at any time by the circuit court of the county in which the person resides or was found, or if the individual is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or was found, in the county of the mental health facility and then only after a full hearing on issues relating to the necessity of committing an individual to a mental health facility or state hospital. If the individual objects to the hearing being held in the county where the mental health facility is located, the hearing shall be conducted in the county of the individual's residence.

(b) *How final commitment proceedings are commenced.* — Final commitment proceedings for an individual may be commenced by the filing of a written application under oath by an adult person having personal knowledge of the facts of the case. The certificate or affidavit is filed with the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a resident or where he or she may be found, or the county of a mental health facility if he or she is hospitalized in a mental health

facility or state hospital located in a county other than where he or she resides or may be found.

(c) *Oath; contents of application; who may inspect application; when application cannot be filed. —*

(1) The person making the application shall do so under oath.

(2) The application shall contain statements by the applicant that the individual is likely to cause serious harm to self or others due to what the applicant believes are symptoms of mental illness or ~~addiction~~ substance use disorder. The applicant shall state in detail the recent overt acts upon which the belief is based.

(3) The written application, certificate, affidavit, and any warrants issued pursuant thereto, including any related documents, filed with a circuit court, mental hygiene commissioner, or ~~designated~~ magistrate for the involuntary hospitalization of an individual are not open to inspection by any person other than the individual, unless authorized by the individual or his or her legal representative or by order of the circuit court. The records may not be published unless authorized by the individual or his or her legal representative. Disclosure of these records may, however, be made by the clerk, circuit court, mental hygiene commissioner, or ~~designated~~ magistrate to provide notice to the Federal National Instant Criminal Background Check System established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. § 922, and the central state mental health registry, in accordance with §61-7A-1 *et seq.* of this code. Disclosure may also be made to the prosecuting attorney and reviewing court in an action brought by the individual pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

(4) Applications may not be accepted for individuals who only have epilepsy, ~~a mental deficiency, senility~~ dementia, or an intellectual or developmental disability.

(d) *Certificate filed with application; contents of certificate; affidavit by applicant in place of certificate. —*

(1) The applicant shall file with his or her application the certificate of a physician or a psychologist stating that in his or her opinion the individual is mentally ill or ~~addicted~~ has a substance use disorder and that because of the mental illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty and, therefore, should be hospitalized. The certificate shall state in detail the recent overt acts on which the conclusion is based.

(2) A certificate is not necessary when an affidavit is filed by the applicant showing facts and the individual has refused to submit to examination by a physician or a psychologist.

(e) *Notice requirements; eight days' notice required.* — Upon receipt of an application, the mental hygiene commissioner or circuit court shall review the application, and if it is determined that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, ~~forthwith~~ immediately fix a date for and have the clerk of the circuit court give notice of the hearing:

(1) To the individual;

(2) To the applicant or applicants;

(3) To the individual's spouse, one of the parents or guardians, or, if the individual does not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next of kin is not the applicant;

(4) To the mental health authorities serving the area;

(5) To the circuit court in the county of the individual's residence if the hearing is to be held in a county other than that of the individual's residence; and

(6) To the prosecuting attorney of the county in which the hearing is to be held.

(f) The notice shall be served on the individual by personal service of process not less than eight days prior to the date of the hearing and shall specify:

- (1) The nature of the charges against the individual;
- (2) The facts underlying and supporting the application of involuntary commitment;
- (3) The right to have counsel appointed;
- (4) The right to consult with and be represented by counsel at every stage of the proceedings; and
- (5) The time and place of the hearing.

The notice to the individual's spouse, parents or parent or guardian, the individual's adult next of kin or to the circuit court in the county of the individual's residence may be by personal service of process or by certified or registered mail, return receipt requested, and shall state the time and place of the hearing.

(g) Examination of individual by court-appointed physician, ~~or~~ psychologist, advanced nurse practitioner, or physician's assistant; custody for examination; dismissal of proceedings. —

(1) Except as provided in subdivision (3) of this subsection, within a reasonable time after notice of the commencement of final commitment proceedings is given, the circuit court or mental hygiene commissioner shall appoint a physician, ~~or~~ psychologist, an advanced nurse practitioner with psychiatric certification, or a physician's assistant with advanced duties in psychiatric medicine to examine the individual and report to the circuit court or mental hygiene commissioner his or her findings as to the mental condition or ~~addiction~~ substance use disorder of the individual and the likelihood of causing serious harm to self or others.

(2) If the designated physician, ~~or~~ psychologist, advanced nurse practitioner, or physician assistant reports to the circuit court or mental hygiene commissioner that the individual has refused to submit to an examination, the circuit court or mental hygiene commissioner shall order him or her to submit to the examination. The circuit court or mental hygiene commissioner may direct that the individual be detained or taken into custody for the purpose of an immediate examination by the designated physician, ~~or~~

psychologist, nurse practitioner, or physician's assistant. All ~~such~~ orders shall be directed to the sheriff of the county or other appropriate law-enforcement officer. After the examination has been completed, the individual shall be released from custody unless proceedings are instituted pursuant to §27-5-3 of this code.

(3) If the reports of the appointed physician, ~~or~~ psychologist, nurse practitioner, or physician's assistant do not confirm that the individual is mentally ill or ~~addicted~~ has a substance use disorder and might be harmful to self or others, then the proceedings for involuntary hospitalization shall be dismissed.

(h) *Rights of the individual at the final commitment hearing; seven days' notice to counsel required.* —

(1) The individual shall be present at the final commitment hearing, and he or she, the applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify and to present and cross-examine witnesses.

(2) In the event the individual has not retained counsel, the court or mental hygiene commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall inform the individual of the name, address, and telephone number of his or her appointed counsel.

(3) The individual has the right to have an examination by an independent expert of his or her choice and to present testimony from the expert as a medical witness on his or her behalf. The cost of the independent expert is paid by the individual unless he or she is indigent.

(4) The individual may not be compelled to be a witness against himself or herself.

(i) *Duties of counsel representing individual; payment of counsel representing indigent.* —

(1) Counsel representing an individual shall conduct a timely interview, make investigation, and secure appropriate witnesses, be present at the hearing, and protect the interests of the individual.

(2) Counsel representing an individual is entitled to copies of all medical reports, psychiatric or otherwise.

(3) The circuit court, by order of record, may allow the attorney a reasonable fee not to exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 *et seq.* of this code.

(j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing.* —

(1) The circuit court or mental hygiene commissioner shall hear evidence from all interested parties in chamber, including testimony from representatives of the community mental health facility.

(2) The circuit court or mental hygiene commissioner shall receive all relevant and material evidence which may be offered.

(3) The circuit court or mental hygiene commissioner is bound by the rules of evidence promulgated by the Supreme Court of Appeals except that statements made to ~~physicians or psychologists~~ health care professionals appointed under subsection (g) of this section by the individual may be admitted into evidence by ~~physician's or psychologist's~~ the health care professional's testimony, notwithstanding failure to inform the individual that this statement may be used against him or her. A ~~psychologist or physician~~ health care professional testifying shall bring all records pertaining to the individual to the hearing. The medical evidence obtained pursuant to an examination under this section, or §27-5-2 or §27-5-3 of this code, is not privileged information for purposes of a hearing pursuant to this section.

(4) All final commitment proceedings shall be reported or recorded, whether before the circuit court or mental hygiene commissioner, and a transcript made available to the individual, his or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further proceedings. In any case where an indigent person intends to pursue further proceedings, the circuit

court shall, by order entered of record, authorize and direct the court reporter to furnish a transcript of the hearings.

(k) *Requisite findings by the court.* —

(1) Upon completion of the final commitment hearing and the evidence presented in the hearing, the circuit court or mental hygiene commissioner shall make findings as to the following:

(A) Whether the individual is mentally ill or ~~addicted~~ has a substance use disorder;

(B) Whether, because of illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty;

(C) Whether the individual is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county; and

(D) Whether there is a less restrictive alternative than commitment appropriate for the individual. The burden of proof of the lack of a less restrictive alternative than commitment is on the person or persons seeking the commitment of the individual; Provided, That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific finding shall be made that the commitment of, or treatment for, the individual requires inpatient hospital placement and that no suitable outpatient community-based treatment program exists in the individual's area.

(2) The findings of fact shall be incorporated into the order entered by the circuit court and must be based upon clear, cogent, and convincing proof.

(l) *Orders issued pursuant to final commitment hearing; entry of order; change in order of court; expiration of order.* —

(1) Upon the requisite findings, the circuit court may order the individual to a mental health facility or state hospital for ~~an indeterminate period or for a temporary observatory period not exceeding six months.~~ a period not to exceed 90 days except as

otherwise provided in this subdivision. During that period and solely for individuals who are committed under §27-6A-1 et seq. of this code, the chief medical officer of the mental health facility or state hospital shall conduct a clinical assessment of the individual at least every 30 days to determine if the individual requires continued placement at the mental health facility or state hospital and whether the individual is suitable to receive any necessary treatment at an outpatient community-based treatment program. If at any time the chief medical officer, acting in good faith and in a manner consistent with the standard of care, determines that: (i) The individual is suitable for receiving outpatient community-based treatment; (ii) necessary outpatient community-based treatment is available in the individual's area as evidenced by a discharge and treatment plan jointly developed by the department and the comprehensive community mental health center or licensed behavioral health provider; and (iii) the individual's clinical presentation no longer requires inpatient commitment, the chief medical officer shall provide written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this section that the individual is suitable for discharge. The chief medical officer may discharge the patient 30 days after the notice unless the court of record stays the discharge of the individual. In the event the court stays the discharge of the individual, the court shall conduct a hearing within 45 days of the stay, and the individual shall be thereafter discharged unless the court finds by clear and convincing evidence that the individual is a significant and present danger to self or others, and that continued placement at the mental health facility or state hospital is required.

If the chief medical officer determines that the individual requires commitment at the mental health facility or state hospital at any time for a period longer than 90 days, then the individual shall remain at the mental health facility or state hospital until the chief medical officer of the mental health facility or state hospital determines that the individual's clinical presentation no longer requires further commitment. The chief medical officer shall provide notice to the court and the prosecuting attorney that the individual requires commitment for a period in excess of 90 days and, in the notice, the chief medical officer shall describe the

reasons for ongoing commitment. In its discretion, the court or prosecuting attorney may request any information from the chief medical officer that the court or prosecuting attorney considers appropriate to justify the need for the individual's ongoing commitment.

(2) Notice to the court of record and prosecuting attorney shall be provided by personal service or certified mail, return receipt requested. The chief medical officer shall make the following findings:

(A) Whether the individual has a mental illness or substance use disorder that does not require inpatient treatment, and the mental illness or serious emotional disturbance is in remission;

(B) Whether the individual's condition resulting from mental illness or substance use disorder is likely to deteriorate to the point that the individual will pose a likelihood of serious harm to self or others unless treatment is continued;

(C) Whether the individual is likely to participate in outpatient treatment with a legal obligation to do so;

(D) Whether the individual is not likely to participate in outpatient treatment unless legally obligated to do so;

(E) Whether the individual is not a danger to self or others; and

(F) Whether mandatory outpatient treatment is a suitable, less restrictive alternative to ongoing commitment.

(2) (3) The individual may not be detained in a mental health facility or state hospital for a period in excess of 10 days after a final commitment hearing pursuant to this section unless an order has been entered and received by the facility.

(3) If the order pursuant to a final commitment hearing is for a temporary observation period, the circuit court or mental hygiene commissioner may, at any time prior to the expiration of such period on the basis of a report by the chief medical officer of the mental health facility in which the patient is confined, hold another

~~hearing pursuant to the terms of this section and in the same manner as the hearing was held as if it were an original petition for involuntary hospitalization to determine whether the original order for a temporary observation period should be modified or changed to an order of indeterminate hospitalization of the patient. At the conclusion of the hearing, the circuit court shall order indeterminate hospitalization of the patient or dismissal of the proceedings.~~

~~(4) An order for an indeterminate period expires of its own terms at the expiration of two years from the date of the last order of commitment unless prior to the expiration, the Department of Health and Human Resources, upon findings based on an examination of the patient by a physician or a psychologist, extends the order for indeterminate hospitalization. If the patient or his or her counsel requests a hearing, a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.~~

(4) An individual committed pursuant to §27-6A-3 of this code may be committed for the period he or she is determined by the court to remain an imminent danger to self or others.

(5) In the event the commitment of the individual as provided under subdivision (1) of this subsection exceeds two years, the individual or his or her counsel may request a hearing and a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.

(m) Dismissal of proceedings. — In the event the individual is discharged as provided in subsection (l) of this section, If the circuit court or mental hygiene commissioner shall finds that the individual is not mentally ill or addicted, the proceedings shall be dismissed. If the circuit court or mental hygiene commissioner finds that the individual is mentally ill or addicted but is not, because of the illness or addiction, likely to cause serious harm to self or others if allowed to remain at liberty, the proceedings shall be dismissed. dismiss the proceedings.

(n) *Immediate notification of order of hospitalization.* — The clerk of the circuit court in which an order directing hospitalization is entered, if not in the county of the individual's residence, shall immediately upon entry of the order forward a certified copy of the order to the clerk of the circuit court of the county of which the individual is a resident.

(o) *Consideration of transcript by circuit court of county of individual's residence; order of hospitalization; execution of order.* —

(1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held and the individual is not currently a resident of a mental health facility or state hospital, a transcript of the evidence adduced at the final commitment hearing of the individual, certified by the clerk of the circuit court, shall ~~forthwith~~ immediately be forwarded to the clerk of the circuit court of the county of which the individual is a resident. The clerk shall immediately present the transcript to the circuit court or mental hygiene commissioner of the county.

(2) If the circuit court or mental hygiene commissioner of the county of the residence of the individual is satisfied from the evidence contained in the transcript that the individual should be hospitalized as determined by the standard set forth ~~above~~ in subdivision one of this subsection, the circuit court shall order the appropriate hospitalization as though the individual had been brought before the circuit court or its mental hygiene commissioner in the first instance.

(3) This order shall be transmitted ~~forthwith~~ immediately to the clerk of the circuit court of the county in which the hearing was held who shall execute the order promptly.

(p) *Order of custody to responsible person.* — In lieu of ordering the ~~patient~~ individual to a mental health facility or state hospital, the circuit court may order the individual delivered to some responsible person who will agree to take care of the individual and the circuit court may take from the responsible

person a bond in an amount to be determined by the circuit court with condition to restrain and take proper care of the individual until further order of the court.

(q) *Individual not a resident of this state.* — If the individual is found to be mentally ill or ~~addicted to~~ have a substance use disorder by the circuit court or mental hygiene commissioner is a resident of another state, this information shall be ~~forthwith~~ immediately given to the Secretary of the Department of Health and Human Resources, or to his or her designee, who shall make appropriate arrangements for transfer of the individual to the state of his or her residence conditioned on the agreement of the individual, except as qualified by the interstate compact on mental health.

(r) *Report to the Secretary of the Department of Health and Human Resources.* —

(1) The chief medical officer of a mental health facility or state hospital admitting a patient pursuant to proceedings under this section shall ~~forthwith~~ immediately make a report of the admission to the Secretary of the Department of Health and Human Resources or to his or her designee.

(2) Whenever an individual is released from custody due to the failure of an employee of a mental health facility or state hospital to comply with the time requirements of this article, the chief medical officer of the mental health or state hospital facility shall ~~forthwith~~ immediately, after the release of the individual, make a report to the Secretary of the Department of Health and Human Resources or to his or her designee of the failure to comply.

(s) *Payment of some expenses by the state; mental hygiene fund established; expenses paid by the county commission.* —

(1) The state shall pay the commissioner's fee and the court reporter fees that are not paid and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

(2) The county commission shall pay out of the county treasury all other expenses incurred in the hearings conducted under the provisions of this article whether or not hospitalization is ordered, including any fee allowed by the circuit court by order entered of record for any physician, psychologist, and witness called by the indigent individual. The copying and mailing costs associated with providing notice of the final commitment hearing and issuance of the final order shall be paid by the county where the involuntary commitment petition was initially filed.

§27-5-10. Transportation for the mentally ill or ~~substance abuser~~ persons with substance use disorder.

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, ~~it shall be the duty of the sheriff to~~ shall provide immediate transportation to or from the appropriate mental health facility or state hospital: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that ~~such~~ those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* — Sheriffs and municipal governments ~~are hereby authorized to~~ may enter into written agreements ~~whereby~~ by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary

requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, ‘certified municipal law-enforcement officer’ means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual.

(e) ~~(d)~~ Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.

ARTICLE 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.

§27-6A-1. Qualified forensic evaluator; qualified forensic psychiatrist; qualified forensic psychologist; definitions and requirements.

(a) For purposes of this article:

(1) ‘Court of record’ means the circuit court with jurisdiction over the charge or charges against the individual or acquittee.

(2) ‘Department’ means the Department of Health and Human Resources.

(3) A ‘qualified forensic evaluator’ is either a qualified forensic psychiatrist or a qualified forensic psychologist as defined in this section.

(4) A 'qualified forensic psychiatrist' is:

(A) A psychiatrist licensed under the laws in this state to practice medicine who has completed post-graduate education in psychiatry in a program accredited by the Accreditation Council of Graduate Medical Education; and

(B) Board eligible or board certified in forensic psychiatry by the American Board of Psychiatry and Neurology or actively enrolled in good standing in a West Virginia training program accredited by the Accreditation Council of Graduate Medical Education to make the evaluator eligible for board certification by the American Board of Psychiatry and Neurology in forensic psychiatry or has two years of experience in completing court-ordered forensic criminal evaluations, including having been qualified as an expert witness by a West Virginia circuit court.

~~(2) (5) A 'qualified forensic psychologist' is:~~

~~(A) A licensed psychologist licensed under the laws of this state to practice psychology; and~~

~~(B) Board eligible or board certified in forensic psychology by the American Board of Professional Psychology or actively enrolled in good standing in a West Virginia training program approved by the American Board of Forensic Psychology to make the evaluator eligible for board certification in forensic psychology or has at least two years of experience in performing court-ordered forensic criminal evaluations, including having been qualified as an expert witness by a West Virginia circuit court.~~

~~(3) A "qualified forensic evaluator" is either a qualified forensic psychiatrist or a qualified forensic psychologist as defined in this section.~~

~~(4) "Department" means the Department of Health and Human Resources.~~

(b) No qualified forensic evaluator may perform a forensic evaluation on an individual under this chapter if the qualified

forensic evaluator has been the individual's treating psychologist or psychiatrist within one year prior to any evaluation order.

§27-6a-2. Competency of defendant to stand trial; cause for appointment of qualified forensic evaluator; written report; observation period.

(a) Whenever a court of record has reasonable cause to believe that a defendant in which an indictment has been returned, or a warrant or summons issued, may be incompetent to stand trial it shall, sua sponte or upon motion filed by the state or by or on behalf of the defendant, at any stage of the proceedings order a forensic evaluation of the defendant's competency to stand trial to be conducted by ~~one or more~~ a qualified forensic psychiatrists, or ~~one or more~~ a qualified forensic psychologists. If a court of record or other judicial officer orders both a competency evaluation and a criminal responsibility or diminished capacity evaluation, the competency evaluation shall be performed first, and if a qualified forensic evaluator is of the opinion that a defendant is not competent to stand trial, no criminal responsibility or diminished capacity evaluation may be conducted without further order of the court. The initial forensic evaluation may not be conducted at a state inpatient mental health facility unless the defendant ~~resides is~~ is a current patient there and the court of record has found that the initial forensic evaluation cannot be performed at a community mental health center consistent with §27-2A-1(b)(4) of this code, at an outpatient facility, or at the office of a qualified forensic psychiatrist or qualified forensic psychologist.

(b) The court shall require the party making the motion for the evaluation, and other parties as the court considers appropriate, to provide to the qualified forensic evaluator appointed under subsection (a) of this section any information relevant to the evaluations within 10 business days of its evaluation order. The information shall include, but not be limited to:

- (1) A copy of the warrant or indictment;

(2) Information pertaining to the alleged crime, including statements by the defendant made to the police, investigative reports, and transcripts of preliminary hearings, if any;

(3) Any available psychiatric, psychological, medical, or social records that are considered relevant;

(4) A copy of the defendant's criminal record; and

(5) If the evaluations are to include a diminished capacity assessment, the nature of any lesser included criminal offenses.

(c) A qualified forensic evaluator shall schedule and arrange for the prompt completion of any court-ordered evaluation which may include record review and defendant interview and shall, within 10 business days of the date of the completion of any evaluation, provide to the court of record a written, signed report of his or her opinion on the issue of competency to stand trial. If it is the qualified forensic evaluator's opinion that the defendant is not competent to stand trial, the report shall state whether the defendant is substantially likely to attain competency within the next ~~three months~~ 90 days and, as provided in this section, in order to attain competency to stand trial, whether the defendant requires inpatient management in a mental health facility may attain competency by receiving competency restoration services at an outpatient mental health facility, outpatient mental health practice, or a jail-based competency restoration program. If the qualified forensic evaluator determines that a defendant is likely to attain competency but that competency restoration can be attained only by inpatient management in a mental health facility or state hospital, the qualified forensic evaluator shall make findings that establish reasons why competency restoration services at an outpatient mental health facility, outpatient mental health practice, or a jail-based competency restoration program would be unsuccessful or are unavailable. Any report by the qualified forensic evaluator shall further address the following:

(1) A diagnosis of the defendant's mental condition;

(2) If the defendant is mentally ill, an opinion as to:

(A) The defendant's ability to understand the criminal proceedings and participate in his or her own defense;

(B) Whether the defendant presents an imminent risk of serious danger to another, is imminently suicidal, or otherwise needs emergency intervention;

(C) Any treatment required for the defendant to attain or maintain competence and an explanation of appropriate treatment alternatives by order of preference, including the extent to which the defendant can be treated without commitment to an institution and the reasons for rejecting such treatment if institutionalization is recommended;

(D) Whether a substantial probability exists that the defendant will ever attain competency to proceed;

(E) The estimated time required to attain competency to proceed;

(F) The availability of acceptable treatment programs in the state, including the provider and type of treatment; and

(G) The factual basis for the diagnosis and opinions.

The court may extend the 10-day period for filing the report if a qualified forensic evaluator shows good cause to extend the period, but in no event may the period exceed 30 days. If there are no objections by the state or defense counsel, the court may, by order, dismiss the requirement for a written report if the qualified forensic evaluator's opinion may otherwise be made known to the court and interested parties.

(d) If the court determines that the defendant has been uncooperative during the forensic evaluation ordered pursuant to subsection (a) of this section or there have been one or more inadequate or conflicting forensic evaluations performed pursuant to subsection (a) of this section and the court has reason to believe that an observation period is necessary in order to determine if a person is competent to stand trial, the court may order the defendant be committed to a mental health facility designated by

the department for a period not to exceed 15 days and an additional evaluation be conducted in accordance with subsection (a) of this section by ~~one or more~~ a qualified forensic psychiatrists, or a ~~qualified forensic psychiatrist and~~ a qualified forensic psychologist. The court shall order that at the conclusion of the 15-day observation period the sheriff of the county where the defendant was charged shall take immediate custody of the defendant for transportation and disposition as ordered by the court.

(e) A mental health facility not operated by the state is not obligated to admit and treat a defendant under this section except as otherwise provided by §27-2A-1(b)(4) and §27-5-9 of this code.

§27-6A-3. Competency of defendant to stand trial determination; preliminary finding; hearing; evidence; disposition

(a) Within five days of the receipt of the qualified forensic evaluator's report and opinion on the issue of competency to stand trial, the court of record shall make a preliminary finding on the issue of whether the defendant is competent to stand trial. If the court of record finds that the defendant is and if not competent, the court shall make a finding of whether there is a substantial likelihood that the defendant will attain competency within the next three months 90 days and whether such competency can be attained by receiving competency restoration services at an outpatient mental health facility, outpatient mental health practice, or a jail-based competency restoration program. If the court of record orders, or if the state or defendant or defendant's counsel within 20 days of receipt of the preliminary findings requests a hearing, then a hearing shall be held by the court of record within 15 days of the date of the preliminary finding, absent good cause being shown for a continuance. If a hearing order or request is not filed within 20 days, the preliminary findings of the court become the final order.

(b) At a hearing to determine a defendant's competency to stand trial the defendant has the right to be present and he or she has the right to be represented by counsel and introduce evidence and cross-examine witnesses. The defendant shall be afforded

timely and adequate notice of the issues at the hearing and shall have access to all forensic evaluator's opinions. All rights generally afforded a defendant in criminal proceedings shall be afforded to a defendant in the competency proceedings, except trial by jury.

(c) The court of record pursuant to a preliminary finding or hearing on the issue of a defendant's competency to stand trial and with due consideration of any forensic evaluation conducted pursuant to §27-6A-2 and §27-6A-3 of this code shall make a finding of fact upon a preponderance of the evidence as to the defendant's competency to stand trial based on whether or not the defendant has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and whether he or she has a rational as well as a factual understanding of the proceedings against him or her.

(d) If at any point in the proceedings the defendant is found competent to stand trial, the court of record shall forthwith proceed with the criminal proceedings.

(e) If at any point in the proceedings the defendant is found not competent to stand trial, the court of record shall at the same hearing, upon the evidence, make further findings as to whether or not there is a substantial likelihood that the defendant will attain competency within the next ensuing ~~three months~~ 90 days.

(f) If at any point in the proceedings the defendant is found not competent to stand trial and is found substantially likely to attain competency, the court of record shall in the same order, upon the evidence, make further findings as to whether the defendant requires, in order to attain competency, inpatient management in a mental health facility. If inpatient management is required, the court shall order the defendant be committed to an inpatient mental health facility designated by the department to attain competency to stand trial and for a competency evaluation. The term of this commitment may not exceed three months from the time of entry into the facility. However, upon request by the chief medical officer of the mental health facility and based on the requirement for additional management to attain competency to stand trial, the court of record may, prior to the termination of the three-month

period, extend the period up to nine months from entry into the facility. A forensic evaluation of competency to stand trial shall be conducted by a qualified forensic evaluator and a report rendered to the court, in like manner as subsections (a) and (c), section two of this article, every three months until the court determines the defendant is not competent to stand trial and is not substantially likely to attain competency.

(g) If at any point in the proceedings the defendant who has been indicted or charged with a misdemeanor or felony which does not involve an act of violence against a person is found not competent to stand trial and is found not substantially likely to attain competency ~~and if the defendant has been indicted or charged with a misdemeanor or felony which does not involve an act of violence against a person, the criminal charges shall be dismissed.~~ after having received competency restoration services for 90 days shall be dismissed. The ~~dismissal~~ discharge order may, however, be stayed for 20 days to allow civil commitment proceedings to be instituted by the prosecutor pursuant to §27-5-1 *et seq.* of this code. Provided: That should a conflict arise between the provisions of this article and those of §27-5-1 *et seq.*, the provisions of this article shall control. The defendant shall be immediately released from any inpatient facility unless civilly committed.

(h) If at any point in the proceedings the defendant is found not competent to stand trial and is found not substantially likely to attain competency, and if the defendant has been indicted or charged with a misdemeanor or felony in which the misdemeanor or felony does involve an act of violence against a person, then the court shall determine on the record the offense or offenses of which the person otherwise would have been convicted, and the maximum sentence he or she could have received. A defendant shall remain under the court's jurisdiction until the expiration of the maximum sentence unless the defendant attains competency to stand trial and the criminal charges reach resolution or the court dismisses the indictment or charge. The court shall order the defendant be committed to a mental health facility designated by the department that is the least restrictive environment to manage

the defendant and that will allow for the protection of the public. Notice of the maximum sentence period with an end date shall be provided to the mental health facility. The court shall order a qualified forensic evaluator to conduct a dangerousness evaluation to include dangerousness risk factors to be completed within 30 days of admission to the mental health facility and a report rendered to the court within 10 business days of the completion of the evaluation. The medical director of the mental health facility shall provide the court a written clinical summary report of the defendant's condition at least annually during the time of the court's jurisdiction. The court's jurisdiction shall continue an additional 10 days beyond any expiration to allow civil commitment proceedings to be instituted by the prosecutor pursuant to article five of this chapter. The defendant shall then be immediately released from the facility unless civilly committed.

(i) If the defendant has been ordered to a mental health facility pursuant to subsection (h) of this section and the court receives notice from the medical director or other responsible official of the mental health facility that the defendant no longer constitutes a significant danger to self or others, the court shall conduct a hearing within 30 days to consider evidence, with due consideration of the qualified forensic evaluator's dangerousness report or clinical summary report to determine if the defendant shall be released to a less restrictive environment. The court may order the release of the defendant only when the court finds that the defendant is no longer a significant danger to self or others. When a defendant's dangerousness risk factors associated with mental illness are reduced or eliminated as a result of any treatment, the court, in its discretion, may make the continuance of appropriate treatment, including medications, a condition of the defendant's release from inpatient hospitalization. The court shall maintain jurisdiction of the defendant in accordance with said subsection. Upon notice that a defendant ordered to a mental health facility pursuant to said subsection who is released on the condition that he or she continues treatment does not continue his or her treatment, the prosecuting attorney shall, by motion, cause the court to reconsider the defendant's release. Upon a showing that defendant is in violation of the conditions of his or her release, the court shall reorder the

defendant to a mental health facility under the authority of the department which is the least restrictive setting that will allow for the protection of the public.

(j) The prosecuting attorney may, by motion, and in due consideration of any chief medical officer's or forensic evaluator's reports, cause the competency to stand trial of a defendant subject to the court's jurisdiction pursuant to subsection (h) of this section or released pursuant to subsection (i) of this section to be determined by the court of record while the defendant remains under the jurisdiction of the court, and in which case the court may order a forensic evaluation of competency to stand trial be conducted by a qualified forensic evaluator and a report rendered to the court in like manner as subsections (a) and (c), section two of this article.

(k) Any defendant found not competent to stand trial may at any time petition the court of record for a hearing on his or her competency however may do so no more often than every six months.

(l) Notice of court findings of a defendant's competency to stand trial, of commitment for inpatient management to attain competency, of dismissal of charges, of order for inpatient management to protect the public, of release or conditional release, or any hearings to be conducted pursuant to this section shall be sent to the prosecuting attorney, the defendant and his or her counsel, and the mental health facility and state hospital. Notice of court release hearing or order for release or conditional release pursuant to subsection (i) of this section shall be made available to the victim or next of kin of the victim of the offense for which the defendant was charged. The burden is on the victim or next of kin of the victim to keep the court apprised of that person's current mailing address.

(m) A mental health facility not operated by the state is not obligated to admit or treat a defendant under this section except as otherwise provided by §27-2A-1(b)(4) and §27-5-9 of this code.

(n) Notwithstanding anything in this article to the contrary, for each individual who is committed to a state hospital or committed to a state hospital and diverted to a licensed hospital prior to the effective date hereof and who has received or will receive the maximum amount of competency restoration treatment authorized under this section prior to January 31, 2021, and who the medical director of such hospital has determined is not restorable, the medical director shall inform the court and prosecutor of record for each such individual as soon as practicable but no later than March 31, 2021, and the medical director shall forthwith provide a recommendation to the court and prosecutor for the clinical disposition, placement, or treatment of each such individual. The state hospital or prosecutor shall thereafter file a civil commitment proceeding, if warranted, as provided under §27-5-1 *et seq.* of this code for each such individual or make other appropriate recommendations to the court of record. The court shall hold any hearing for each such individual as soon as practicable but no later than June 30, 2021.

§27-6A-4. Criminal responsibility or diminished capacity evaluation; court jurisdiction over persons found not guilty by reason of mental illness

(a) If the court of record finds, upon hearing evidence or representations of counsel for the defendant, that there is probable cause to believe that the defendant's criminal responsibility or diminished capacity will be a significant factor in his or her defense, the court shall appoint ~~one or more~~ a qualified forensic psychiatrists or qualified forensic psychologists to conduct a forensic evaluation of the defendant's state of mind at the time of the alleged offense. However, if a qualified forensic evaluator is of the opinion that the defendant is not competent to stand trial that no criminal responsibility or diminished capacity evaluation may be conducted. The forensic evaluation may not be conducted at a state inpatient mental health facility unless the defendant has been ordered to a mental health facility or state hospital in accordance with §27-6A-2(c) or §27-6A-3(f) or (h) of this code. To the extent possible, qualified forensic evaluators who have conducted evaluations of competency under §27-6A-2(a) of this code shall be

used to evaluate criminal responsibility or diminished capacity under this subsection.

(b) The court shall require the party making the motion for the evaluations, and other parties as the court considers appropriate, to provide to the qualified forensic evaluator appointed under subsection (a) of this section any information relevant to the evaluation within 10 business days of its evaluation order. The information shall include, but not be limited to:

(1) A copy of the warrant or indictment;

(2) Information pertaining to the alleged crime, including statements by the defendant made to the police, investigative reports, and transcripts of preliminary hearings, if any;

(3) Any available psychiatric, psychological, medical, or social records that are considered relevant;

(4) A copy of the defendant's criminal record; and

(5) If the evaluation is to include a diminished capacity assessment, the nature of any lesser criminal offenses.

(c) A qualified forensic evaluator shall schedule and arrange within 15 days of the receipt of appropriate documents the completion of any court-ordered evaluation which may include record review and defendant interview and shall, within 10 business days of the date of the completion of any evaluation, provide to the court of record a written, signed report of his or her opinion on the issue of criminal responsibility and if ordered, on diminished capacity. The court may extend the 10-day period for filing the report if a qualified forensic evaluator shows good cause to extend the period, but in no event may the period exceed 30 days. If there are no objections by the state or defense counsel, the court may, by order, dismiss the requirement for a written report if the qualified forensic evaluator's opinion may otherwise be made known to the court and interested parties.

(d) If the court determines that the defendant has been uncooperative during a forensic evaluation ordered pursuant to

subsection (a) of this section or there are inadequate or conflicting forensic evaluations performed pursuant to subsection (a) of this section, and the court has reason to believe that an observation period and additional forensic evaluation or evaluations are necessary in order to determine if a defendant was criminally responsible or with diminished capacity, the court may order the defendant be admitted to a mental health facility or state hospital designated by the department for a period not to exceed 15 days and an additional evaluation be conducted and a report rendered in like manner as subsections (a) and (b) of this section by one or more qualified forensic psychiatrists or one or more qualified forensic psychologists. At the conclusion of the observation period, the court shall enter a disposition order and the sheriff of the county where the defendant was charged shall take immediate custody of the defendant for transportation and disposition as ordered by the court.

(e) If the verdict in a criminal trial is a judgment of not guilty by reason of mental illness, the court shall determine on the record the offense or offenses of which the acquittee could have otherwise been convicted, and the maximum sentence he or she could have received. The acquittee shall remain under the court's jurisdiction until the expiration of the maximum sentence or until discharged by the court. ~~The court shall commit the acquittee to a mental health facility designated by the department that is the least restrictive environment to manage the acquittee and that will allow for the protection of the public. Notice of the maximum sentence period with end date shall be provided to the mental health facility.~~ The court shall order a qualified forensic evaluator to conduct a dangerousness evaluation to include dangerousness risk factors to be completed within 30 days of admission to the mental health facility and a report rendered to the court within 10 business days of the completion of the evaluation. The medical director of the mental health facility shall provide the court a written clinical summary report of the defendant's condition at least annually during the time of the court's jurisdiction. The court's jurisdiction continues an additional 10 days beyond any expiration to allow civil commitment proceedings to be instituted by the prosecutor

pursuant to §27-5-1 *et seq.* of this code. The defendant shall then be immediately released from the facility unless civilly committed.

(f) The court shall place persons so acquitted under section (e) in the temporary custody of the department for evaluation to determine if the acquittee may be released with or without conditions or if the acquittee requires commitment. The court may authorize that the evaluation be conducted on an outpatient basis. If the court authorizes an outpatient evaluation, the department shall determine, on the basis of all information available, whether the evaluation shall be conducted on an outpatient basis or whether the acquittee shall be confined in a hospital for evaluation. If the court does not authorize an outpatient evaluation, the acquittee shall be confined in a hospital for evaluation. If an acquittee who is being evaluated on an outpatient basis fails to comply with such evaluation, the department shall petition the court for an order to confine the acquittee in a hospital for evaluation. A copy of the petition shall be sent to the acquittee's attorney and the prosecutor of the acquittee's case. The evaluation shall be conducted by a psychiatrist or a clinical psychologist skilled in the diagnosis of mental illness and intellectual disability and qualified by training and experience to perform such evaluations. The evaluator shall determine whether the acquittee currently has mental illness or intellectual disability and shall assess the acquittee and report on his or her condition and need for hospitalization with respect to the factors set forth in §27-6A-5(b) of this code. The evaluator shall conduct his or her examination and report his or her findings separately within 30 days of the department's assumption of custody of the acquittee. Copies of the report shall be sent to the acquittee's attorney, the prosecuting attorney for the jurisdiction where the person was acquitted, and the comprehensive community mental health center designated by the department. If the evaluator recommends conditional release or release without conditions of the acquittee, the court shall extend the evaluation period to permit the department and the comprehensive community mental health center or licensed behavioral health provider to jointly prepare a conditional release or discharge plan, as applicable, prior to the hearing.

(f) (g) In addition to any court-ordered evaluations completed pursuant to section two, three or four of this article, the defendant or the state has the right to an evaluation or evaluations by a forensic evaluator or evaluators of his or her choice and at his or her expense.

(g) (h) A mental health facility not operated by the state is not required to admit or treat a defendant or acquittee under this section except as otherwise provided by §27-2A-1(b)(4) and §27-5-9 of this code.

§27-6A-5. Release of acquittee to less restrictive environment; discharge from jurisdiction of the court; conditional release; and commitment.

~~(a) If, at any time prior to the expiration of the court's jurisdiction, the chief medical officer or responsible official of the mental health facility to which an acquittee has been ordered pursuant to subsection (e), section four of this article believes that the acquittee is not mentally ill or does not have significant dangerousness risk factors associated with mental illness, he or she shall file with the court of record notice of the belief and shall submit evidence in support of the belief to include a forensic evaluation dangerousness report conducted in like manner as said subsection and recommendations for treatment, including medications, that reduce or eliminate the dangerousness risk factors associated with mental illness. The court of record shall hold a hearing within thirty days of receipt of the notice to consider evidence as to whether the acquittee shall be released from the mental health facility to a less restrictive environment. Notice of the hearing shall be made available to the prosecuting attorney responsible for the charges brought against the acquittee at trial, the acquittee and his or her counsel and the mental health facility. If upon consideration of the evidence the court determines that an acquittee may be released from a mental health facility to a less restrictive setting, the court shall order, within fifteen days of the hearing, the acquittee be released upon terms and conditions, if any, the court considers appropriate for the safety of the community and the well-being of the acquittee. Any terms and conditions imposed by the court must be protective and therapeutic in nature, not~~

~~punitive. When a defendant's dangerousness risk factors associated with mental illness are reduced or eliminated as a result of any treatment, the court, in its discretion, may make the continuance of appropriate treatment, including medications, a condition of the defendant's release from inpatient hospitalization. The court shall maintain jurisdiction of the defendant in accordance with said subsection. Upon notice that an acquittee released on the condition that he or she continues appropriate treatment does not continue his or her treatment, the prosecuting attorney responsible for the charges brought against the acquittee at trial shall, by motion, cause the court to reconsider the acquittee's release and upon a showing that the acquittee is in violation of the conditions of his or her release, the court may reorder the acquittee to a mental health facility designated by the department which is the least restrictive setting appropriate to manage the acquittee and protect the public.~~

~~(b) No later than thirty days prior to the release from a mental health facility or other management setting of an acquittee because of the expiration of the court's jurisdiction as set in accordance with subsection (c), section four of this article, if the acquittee's physician, psychologist, chief medical officer or other responsible party is of the opinion that the acquittee's mental illness renders the acquittee to be likely to cause serious harm to self or others, the supervising physician, psychologist, chief medical officer or other responsible party shall notify the court of record who shall promptly notify the prosecuting attorney in the county of the court having jurisdiction of the opinion and the basis for the opinion. Following notification, the prosecuting attorney may file, within ten days, a civil commitment application against the acquittee pursuant to article five of this chapter.~~

(a) Upon receipt of the evaluation report as provided in §27-6A-4(e) of this code and, if applicable, a conditional release or discharge plan, the court shall schedule the matter for hearing on an expedited basis to determine the appropriate disposition of the acquittee. Except as otherwise ordered by the court, the attorney who represented the defendant at the criminal proceedings shall represent the acquittee through the proceedings pursuant to this section. The matter may be continued on motion of either party for

good cause shown. The acquittee shall be provided with adequate notice of the hearing, of the right to be present at the hearing, the right to assistance of counsel in preparation for and during the hearing, and the right to introduce evidence and cross examine witnesses at the hearing. The hearing is a civil proceeding.

(b) At the conclusion of the hearing, the court shall commit the acquittee to a mental health facility or state hospital if it finds by clear and convincing evidence that the acquittee has a mental illness or an intellectual disability and that because of the nature or severity of acquittee's condition the acquittee cannot be treated on an outpatient basis and requires inpatient management. The decision of the court shall be based upon consideration of the following factors:

(1) To what extent the acquittee has mental illness or an intellectual disability;

(2) The likelihood that the acquittee will engage in conduct presenting a substantial risk of bodily harm to other persons or to himself in the foreseeable future;

(3) The likelihood that the acquittee can be adequately controlled with supervision and treatment on an outpatient basis; and

(4) Such other factors as the court deems relevant.

(c) If inpatient hospitalization is ordered by the court, the mental health facility or state hospital shall periodically provide written clinical reports to the court regarding the continued need for hospitalization as provided by this subsection. A report shall be sent to the court after the initial six months of treatment and every two years after the initial report is made. The court shall provide copies of any such reports to the prosecutor and counsel for the acquittee. Within 30 days after its receipt of the report, the court shall hold a hearing to consider the issue of the continued commitment of the acquittee. The acquittee may request a change in the conditions of confinement, and the trial court shall conduct

a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(d) Notwithstanding anything in this section to the contrary, the court shall order the acquittee released if the court finds that the acquittee meets the criteria for conditional release as set forth in subsection (b). The court may order such other conditions that it deems necessary in accordance with subsection (c). If the court finds that the acquittee does not need inpatient hospitalization nor does the acquittee meet the criteria for conditional release, the court shall release the acquittee without conditions, provided the court has approved a discharge plan prepared by the appropriate comprehensive community mental health center or licensed behavioral health provider in consultation with the department.

(e) The court shall order that any person acquitted by reason of insanity and committed pursuant to this section who is sentenced to a term of incarceration for any other offense in the same proceeding or in any proceeding conducted prior to the proceeding in which the person is acquitted by reason of insanity complete any sentence imposed for such other offense prior to being placed in the custody of the department until released from commitment pursuant to this chapter. The court shall order that any person acquitted by reason of insanity and committed pursuant to this section who is sentenced to a term of incarceration in any proceeding conducted during the period of commitment be transferred to the custody of the correctional facility where he or she is to serve his or her sentence, and, upon completion of his or her sentence, such person shall be placed in the custody of the department until released from commitment pursuant to this chapter.

(f) At any time the court considers the acquittee's need for inpatient hospitalization pursuant to this section, the court shall place the acquittee on conditional release if it finds that (i) based on consideration of the factors which the court must consider in its commitment decision as provided in subsection (b), the acquittee does not need inpatient hospitalization but may receive outpatient treatment or monitoring to prevent his or her condition from deteriorating to a degree that he or she would need inpatient

hospitalization; (ii) appropriate outpatient supervision and treatment are reasonably available; (iii) is not mentally ill or does not have significant dangerousness risk factors associated with mental illness; (iv) there is significant reason to believe that the acquittee, if conditionally released, would comply with the conditions specified; and (v) conditional release will not present an undue risk to public safety. The court shall subject a conditionally released acquittee to such orders and conditions it deems will best meet the acquittee's need for treatment and supervision and best serve the interests of justice and society.

(g) The comprehensive community mental health center or licensed behavioral health provider as designated by the department shall implement the court's conditional release orders and shall submit written reports to the court on the acquittee's progress and adjustment in the community no less frequently than every six months. An acquittee's conditional release shall not be revoked solely because of his or her voluntary admission to a state hospital.

(h) If at any time the court that conditionally released an acquittee finds reasonable grounds to believe that an acquittee on conditional release (i) has violated the conditions of his or her release or is no longer a proper subject for conditional release based on application of the criteria for conditional release and (ii) requires inpatient hospitalization, it may order an evaluation of the acquittee by a psychiatrist or clinical psychologist qualified by training and experience to perform forensic evaluations. If the court, based on the evaluation and after hearing evidence on the issue, finds by a preponderance of the evidence that an acquittee on conditional release (a) has violated the conditions of his or her release or is no longer a proper subject for conditional release based on application of the criteria for conditional release and (b) has a mental illness or an intellectual disability and requires inpatient hospitalization, the court may revoke the acquittee's conditional release and order him or her returned to the custody of the department.

(i) At any hearing pursuant to this section, the acquittee shall be provided with adequate notice of the hearing, of the right to be present at the hearing, the right to the assistance of counsel in

preparation for and during the hearing, and the right to introduce evidence and cross-examine witnesses at the hearing. The hearing shall be scheduled on an expedited basis. Written notice of the hearing shall be provided to the prosecuting attorney for the committing jurisdiction. The hearing is a civil proceeding.

(j) If during the term of the acquittee's conditional release the court finds that the acquittee has violated the conditions of his or her release but does not require inpatient hospitalization, the court may hold the acquittee in contempt of court for violation of the conditional release order.

(k) The court may modify conditions of release or remove conditions placed on release pursuant to subsection (f) upon petition by the comprehensive community mental health center or licensed behavioral health provider, the prosecuting attorney, the acquittee, or upon its own motion based upon the report or reports of such comprehensive community mental health center or behavioral health provider. However, the acquittee may petition no more frequently than annually and only six months after the conditional release order is entered. Upon petition, the court shall require the comprehensive community mental health center or behavioral health provider to provide a report on the acquittee's progress while on conditional release.

(l) As it deems appropriate and based on the report from the comprehensive community mental health center or behavioral health provider and any other evidence provided to it, the court may issue a proposed order for modification or removal of conditions. The court shall provide notice of the order, and their right to object to it, within ten days of its issuance, to the acquittee, the comprehensive community mental health center or behavioral health provider, and the prosecuting attorney for the committing jurisdiction and for the jurisdiction where the acquittee is residing on conditional release. The proposed order shall become final if no objection is filed within ten days of its issuance. If an objection is so filed, the court shall conduct a hearing at which the acquittee, the prosecuting attorney, and the comprehensive community mental health center or behavioral health provider have an opportunity to present evidence challenging the proposed order. At

the conclusion of the hearing, the court shall issue an order specifying conditions of release or removing existing conditions of release, as the court deems appropriate.

§27-6A-12. Study of adult criminal competency and responsibility issues; requiring and requesting report and proposed legislation; submission to legislature.

(a) The Secretary of the Department of Health and Human Resources shall, in collaboration with designees of the Supreme Court of Appeals, the Prosecuting Attorney's Institute Association, the Public Defender Services, Disability Rights of West Virginia, and designees of the Board of Medicine, Board of Osteopathy, and the Board Examiners of Psychologists with experience in issues of competence and criminal responsibility, undertake an evaluation of the provisions of this article in the context of current constitutional requirements related to competency and responsibility issues, best medical practices, and pharmacological developments and draft proposed legislation to update the provisions of this article.

(b) The legislation required by the provisions of subsection (a) of this section shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020."

Speaker Pro Tempore Cowles in the Chair

The amendment was adopted and the bill was then ordered to third reading.

Com. Sub. for S. B. 291, Requiring PEIA and health insurance providers provide mental health parity; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page eleven, section seven, following line two hundred sixty-seven, by inserting a new subdivision to read as follows:

“(6) After the initial report required by this subsection, annual reports are only required for any year thereafter during which the

Public Employees Insurance Agency makes significant changes to how it designs and applies medical management protocols.”

On page seventeen, section four-u, line one hundred twenty-one, following the words “year 2021” and the period, by inserting a new sentence to read as follows: “The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.”

On page twenty-two, section three-a, line one hundred twenty, following the words “year 2021” and the period, by inserting a new sentence to read as follows: “The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.”

On page twenty-nine, section seven-u, line one hundred eighteen, following the words “year 2021” and the period, by inserting a new sentence to read as follows: “The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.”

On page thirty-six, section eight-r, line one hundred twenty, following the words “year 2021” and the period, by inserting a new sentence to read as follows: “The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.”

And,

On page forty-one, section eight-u, line one hundred twenty, following the words “year 2021” and the period, by inserting a new

sentence to read as follows: “The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.”

The bill was then ordered to third reading.

S. B. 322, Relating to prequalifications for state contract vendors; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 472, Providing alternative sentencing program for work release; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 517, Creating State Parks and Recreation Endowment Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Fast, the bill was amended on page one, immediately following the enacting clause by inserting the following heading:

“CHAPTER 21. LABOR.

**ARTICLE 3E. THE WEST VIRGINIA SAFER
WORKPLACE ACT.”**

And,

On page one, line eighteen, immediately following the word “chapter” and the period by inserting the following new section:

“CHAPTER 21A. UNEMPLOYMENT COMPENSATION.**ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.****§21A-6-3. Disqualification for benefits.**

Upon the determination of the facts by the commissioner, an individual is disqualified for benefits:

(1) For the week in which he or she left his or her most recent work voluntarily without good cause involving fault on the part of the employer and until the individual returns to covered employment and has been employed in covered employment at least thirty working days.

For the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer if the individual leaves his or her most recent work with an employer and if he or she in fact, within a fourteen-day calendar period, does return to employment with the last preceding employer with whom he or she was previously employed within the past year prior to his or her return to work, and which last preceding employer, after having previously employed the individual for thirty working days or more, laid off the individual because of lack of work, which layoff occasioned the payment of benefits under this chapter or could have occasioned the payment of benefits under this chapter had the individual applied for benefits. It is the intent of this paragraph to cause no disqualification for benefits for an individual who complies with the foregoing set of requirements and conditions. Further, for the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer, if the individual was compelled to leave his or her work for his or her own health-related reasons and notifies the employer prior to leaving the job or within two business days after leaving the job or as soon as practicable and presents written certification from a licensed physician within thirty days of leaving the job that his or her work aggravated, worsened or will worsen the individual's health problem.

(2) For the week in which he or she was discharged from his or her most recent work for misconduct and the six weeks immediately following that week; or for the week in which he or she was discharged from his or her last thirty-day employing unit for misconduct and the six weeks immediately following that week. The disqualification carries a reduction in the maximum benefit amount equal to six times the individual's weekly benefit. However, if the claimant returns to work in covered employment for thirty days during his or her benefit year, whether or not the days are consecutive, the maximum benefit amount is increased by the amount of the decrease imposed under the disqualification; except that:

If he or she were discharged from his or her most recent work for one of the following reasons, or if he or she were discharged from his or her last thirty days employing unit for one of the following reasons: Gross misconduct consisting of willful destruction of his or her employer's property; assault upon the person of his or her employer or any employee of his or her employer; if the assault is committed at the individual's place of employment or in the course of employment; reporting to work in an intoxicated condition, or being intoxicated while at work; reporting to work under the influence of any controlled substance, as defined in chapter sixty-a of this code without a valid prescription, or being under the influence of any controlled substance, as defined in said chapter without a valid prescription, while at work; adulterating or otherwise manipulating a sample or specimen in order to thwart a drug or alcohol test lawfully required of an employee; refusal to submit to random testing for alcohol or illegal controlled substances for employees in safety sensitive positions as defined in section two, article one-d, chapter twenty-one of this code; violation of an employer's drug free workplace program; violation of an employer's alcohol free workplace program; arson, theft, larceny, fraud or embezzlement in connection with his or her work; or any other gross misconduct, he or she is disqualified for benefits until he or she has thereafter worked for at least thirty days in covered employment: *Provided*, That for the purpose of this subdivision, the words "any other gross misconduct" includes, but is not limited to, any act or acts of

misconduct where the individual has received prior written warning that termination of employment may result from the act or acts.

(3) For the week in which he or she failed without good cause to apply for available, suitable work, accept suitable work when offered, or return to his or her customary self-employment when directed to do so by the commissioner, and for the four weeks which immediately follow for such additional period as any offer of suitable work shall continue open for his or her acceptance. The disqualification carries a reduction in the maximum benefit amount equal to four times the individual's weekly benefit amount.

(4) For any week or portion thereof in which he or she did not work as a result of:

(a) A strike or other bona fide labor dispute which caused him or her to leave or lose his or her employment;

(b) A lockout is not a strike or a bona fide labor dispute and no individual may be denied benefits by reason of a lockout. However, the operation of a facility by non-striking employees of the company, contractors or other personnel is not a reason to grant employees of the company on strike unemployment compensation benefit payments. If the operation of a facility is with workers hired to permanently replace the employees on strike, the employees would be eligible for benefits.

(c) For the purpose of this subsection, an individual shall be determined to leave or lose his or her employment by reason of a lockout where the individual employee has established that: (i) The individual presented himself or herself physically for work at the workplace on the first day of such lockout or on the first day he or she is able to present himself at the workplace or herself; and (ii) the employer denied the individual the opportunity to perform work.

(d) For purposes of this subsection, an individual is determined to be permanently replaced where the individual employee establishes that: (i) He or she is currently employed by an employer

who is the subject of a strike or other bona fide labor dispute; and (ii) the position of the employee has been occupied by another employee who has been notified they are permanently replacing the employee who previously occupied the position. Employees or contractors who are hired to perform striking employees' work on a temporary basis, such as the duration of a strike or other bona fide labor dispute, or a shorter period of time, may not be determined to have permanently replaced a striking employee.

(5) For a week with respect to which he or she is receiving or has received:

(a) Wages in lieu of notice;

(b) Compensation for temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(c) Unemployment compensation benefits under the laws of the United States or any other state.

(6) For the week in which an individual has voluntarily quit employment to marry or to perform any marital, parental or family duty, or to attend to his or her personal business or affairs and until the individual returns to covered employment and has been employed in covered employment at least thirty working days: *Provided*, That an individual who has voluntarily quit employment to accompany a spouse serving in active military service who has been reassigned from one military assignment to another is not disqualified for benefits pursuant to this subdivision: *Provided however*, That the account of the employer of an individual who leaves the employment to accompany a spouse reassigned from one military assignment to another may not be charged.

(7) Benefits may not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar

periods) and there is a reasonable assurance that the individual will perform the services in the later of the seasons (or similar periods).

(8) (a) Benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act): *Provided*, That any modifications to the provisions of Section 3304(a)(14) of the federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date than stated in this subdivision for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act are applicable under the provisions of this section.

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status may be made except upon a preponderance of the evidence.

(9) For each week in which an individual is unemployed because, having voluntarily left employment to attend a school, college, university or other educational institution, he or she is attending that school, college, university or other educational institution, or is awaiting entrance thereto or is awaiting the starting of a new term or session thereof, and until the individual returns to covered employment.

(10) For each week in which he or she is unemployed because of his or her request, or that of his or her duly authorized agent, for a vacation period at a specified time that would leave the employer no other alternative but to suspend operations.

(11) In the case of an individual who accepts an early retirement incentive package, unless he or she: (i) Establishes a well-grounded fear of imminent layoff supported by definitive objective facts involving fault on the part of the employer; and (ii) establishes that he or she would suffer a substantial loss by not accepting the early retirement incentive package.

(12) For each week with respect to which he or she is receiving or has received benefits under Title II of the Social Security Act or similar payments under any Act of Congress, or remuneration in the form of an annuity, pension or other retirement pay from a base period employer or chargeable employer or from any trust or fund contributed to by a base period employer or chargeable employer or any combination of the above, the weekly benefit amount payable to the individual for that week shall be reduced (but not below zero) by the prorated weekly amount of those benefits, payments or remuneration: *Provided*, That if the amount of benefits is not a multiple of \$1, it shall be computed to the next lowest multiple of \$1: *Provided, however*, That there is no disqualification if in the individual's base period there are no wages which were paid by the base period employer or chargeable employer paying the remuneration, or by a fund into which the employer has paid during the base period: *Provided further*, That notwithstanding any other provision of this subdivision to the contrary, the weekly benefit amount payable to the individual for that week may not be reduced by any retirement benefits he or she is receiving or has received under Title II of the Social Security Act or similar payments under any Act of Congress. A claimant may be required to certify as to whether or not he or she is receiving or has been receiving remuneration in the form of an annuity, pension or other retirement pay from a base period employer or chargeable employer or from a trust fund contributed to by a base period employer or chargeable employer.

(13) For each week in which and for fifty-two weeks thereafter, beginning with the date of the decision, if the commissioner finds the individual who within twenty-four calendar months immediately preceding the decision, has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this article: *Provided*, That disqualification under this subdivision does not preclude prosecution under section seven, article ten of this chapter.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 551, Relating to Water and Wastewater Investment and Infrastructure Improvement Act; on second reading, coming up in regular order, was read a second time,

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page, four, section four-g, line twenty-three, after the words “negotiate a”, by striking out the word “fair”.

On page four, section four-g, line twenty-three, after the word “assets”, by striking out the following phrase “that lies between ascertainable minimum and maximum values set forth in this section”.

On page four, section four-g, line twenty-five, after the words “assets in”, by striking out the following phrase “the acquiring utility’s”.

On page five, section four-g, line forty-two, following “(b)”, by striking out the words “Fair value”, and inserting in lieu thereof the word “Value”.

On page five, section four-g, line forty-five after the words “assets that” by striking out the words “falls between the depreciated original cost and the reproduction cost new less depreciation, and in that case the applicants will present evidence of those two values in the application.” and inserting in lieu thereof the following:

“is in accordance with utility asset valuation methodologies, such as depreciated original cost, or reproduction cost new less depreciation, or other industry standard utility asset valuation methods, excluding the use of fair market appraisal valuation methods: *Provided*, That the applicants will present evidence of those asset values in the application: *Provided, however*, That the utility asset valuation methodologies and definitions referenced in 24-2-4g (d) apply solely to cases filed pursuant to Chapter 24 of this code.”

On page five, section four-g, line fifty-one, after the word “then”, by striking out the words “if the negotiated sale price:” and inserting in lieu thereof the following “the commission will establish the rate based addition at the negotiated sale price, as determined and in accordance with subdivision (1) of this subsection.”

On page six, section four-g, line fifty-three by striking out paragraph (A) and paragraph (B) in their entirety.

On page eight, section four-g, line one hundred sixteen, after the word “assets”, by inserting a comma and the words “net of depreciation.”

And,

On page eight, section four-g, line one hundred twenty-three, after subdivision (8), by inserting a new subdivision (9) to read as follows:

“(9) “Utility Asset Valuation” means industry standard valuation methods of determining the value of utility assets, regardless of original sources of funding.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 579, Changing and adding fees to wireless enhanced 911 fee; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 589, Creating Critical Needs/Failing Systems Sub Account; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

§31-15A-17c. Critical Needs and Failing Systems Sub Account.

Notwithstanding any provision of this article to the contrary:

(a) The Water Development Authority shall establish a separate and segregated sub account in the Infrastructure Fund designated the Critical Needs and Failing Systems Sub Account into which the council may instruct the Water Development Authority to transfer from the uncommitted loan balances for each congressional district on June 30 each year up to \$4 million per congressional district.

(b) The council shall direct the Water Development Authority to make loans or grants from the Critical Needs and Failing Systems Sub Account when the council determines that a project will address a critical immediate need by:

(1) The continuation of water or wastewater services;

(2) Addressing water facility or wastewater facility failure due to the age of the facility or facilities; or

(3) Providing extensions to a water facility or wastewater facility that will add customers with a total project cost of less than \$1 million.

(c) Grant limitations and allocations contained in §31-15A-10(b) and §31-15A-10(c) of this code do not apply to grants made from the Critical Needs and Failing Systems Sub Account.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 599**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Speaker Hanshaw, Higginbotham, Jennings, Kump and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 600**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Kump, Wilson and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. 589) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 597, Relating to judicial branch members' salaries and pensions; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 50. MAGISTRATE COURTS.**ARTICLE 1. COURTS AND OFFICERS.****§50-1-3. Salaries of magistrates.**

(a) The Legislature finds and declares that:

(1) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate the equal protection clause of the Constitution of the United States;

(2) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate section thirty-nine, article VI of the Constitution of West Virginia;

(3) The Administrative Office of the Supreme Court of Appeals of West Virginia has stated that the utilization of a two-tiered salary schedule for magistrates is no longer an equitable and rational manner by which magistrates should be compensated for work performed;

(4) Organizing the two tiers of the salary schedule into one tier for magistrates serving less than seven thousand three hundred in population and a second tier for magistrates serving seven thousand three hundred or more in population is no longer rational and equitable given current statistical information relating to population and caseload; and

(5) That, by January 1, 2017, all magistrates should be compensated equally.

(b) The salary of each magistrate shall be paid by the state. Magistrates who serve fewer than seven thousand three hundred in population shall be paid annual salaries of \$51,125 and magistrates who serve seven thousand three hundred or more in population shall be paid annual salaries of \$57,500.

(c) For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. For the purpose of this article, the population of each county is the population as determined by the last preceding decennial census taken under the authority of the United States government.

(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 First Extraordinary Session are effective upon passage and are retroactive to January 1, 2013.

(e) On or before July 1, 2013, the Joint Committee on Government and Finance shall request a study by the National Center for State Courts, working in conjunction with the Administrative Office of the Supreme Court of Appeals of West Virginia, to review the weighted case loads in each of the magistrate courts in this state, and present recommendations as to how the present resources and personnel in the magistrate court system could be better apportioned to equitably and timely meet the collective needs of the magistrate court system in West Virginia. Based on the findings and data generated by that study, the National Center for State Courts shall make recommendations as to the equitable redistribution of personnel and resources, by temporary or permanent reassignment, to better meet the needs and weighted loads that are demonstrated to exist in the various magistrate courts in this state. This study shall be presented to the Joint Committee on Government and Finance no later than December 1, 2014, and shall include recommendations and proposed legislation resulting from such study and shall also include a plan to continue the efficient delivery of justice by the magistrate court system and the justification for equalization of pay for all magistrates. As a part of the submitted study, the plan shall consider the reassignment of magistrates or the extension of their duties and jurisdiction to include holding court or delivering services to adjacent counties with higher caseloads, as part of their regular duties, or being on call as needed to serve other needs in other adjacent counties or within the same judicial circuit.

On or before January 15, 2015, the Supreme Court of Appeals of West Virginia shall present its recommendations to the Legislature regarding how to allocate or assign a maximum of one hundred fifty- eight magistrates throughout this state to improve the magistrate process, and more equitably distribute the magistrate court resources to efficiently and effectively meet the needs of the citizens of this state.

(f) Notwithstanding any provision of this code to the contrary, beginning January 1, 2017, all magistrates shall be compensated equally and the annual salary of all magistrates shall be \$57,500.

(g) Notwithstanding any provisions of this code to the contrary, beginning July 1, 2021, the annual salary of a magistrate shall be \$60,375, and beginning July 1, 2022, the annual salary of a magistrate shall be \$63,250.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-10A. SALARY OF JUSTICES.

The salary of each of the justices of the Supreme Court of Appeals shall be \$95,000 per year: *Provided*, That beginning July, 1, 2005, the salary of each of the justices of the Supreme Court shall be \$121,000: *Provided, however*, That beginning July 1, 2011, the annual salary of a justice of the Supreme Court shall be \$136,000: Provided, further, That beginning July 1, 2021, the annual salary of a justice of the Supreme Court of Appeals shall be \$142,800, and beginning July 1, 2022, the annual salary of a justice of the Supreme Court of Appeals shall be \$149,600.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

§51-2-13. Salaries of judges of circuit courts.

The salaries of the judges of the various circuit courts shall be paid solely out of the State Treasury. No county, county commission, board of commissioners or other political subdivision shall supplement or add to such salaries.

The annual salary of all circuit judges shall be \$90,000 per year: *Provided*, That beginning July 1, 2005, the annual salary of all circuit judges shall be \$116,000 per year: *Provided, however*, That beginning July 1, 2011, the annual salary of a circuit court judge shall be \$126,000: Provided, further, That beginning July 1, 2021, the annual salary of a circuit judge shall be \$132,300 and beginning July 1, 2022, the annual salary of a circuit court judge shall be \$138,600.

ARTICLE 2A. FAMILY COURTS.

§51-2A-6. Compensation and expenses of family court judges and their staffs.

(a) A family court judge is entitled to receive as compensation for his or her services an annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge is entitled to receive as compensation for his or her services an annual salary of \$82,500: *Provided, however*, That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500: Provided, further, beginning July 1, 2020, the annual salary of a family court judge shall be \$103,950.

(b) The secretary-clerk of the family court judge is appointed by the family court judge and serves at his or her will and pleasure. The secretary-clerk of the family court judge is entitled to receive an annual salary of \$27,036: *Provided*, That on and after July 1, 2006, the annual salary of the secretary-clerk shall be established by the Administrative Director of the Supreme Court of Appeals, but may not exceed \$39,000. In addition, any person employed as a secretary-clerk to a family court judge on the effective date of the enactment of this section during the sixth extraordinary session of the Legislature in the year 2001 who is receiving an additional \$500 per year up to 10 years of a certain period of prior employment under the provisions of the prior enactment of §51-2A-8 of this code during the second extraordinary session of the Legislature in the year 1999 shall continue to receive such additional amount. Further, the secretary-clerk will receive such percentage or proportional salary increases as may be provided by general law for other public employees and is entitled to receive

the annual incremental salary increase as provided in §5-5-1 *et seq.* of this code.

(c) The family court judge may employ not more than one family case coordinator who serves at his or her will and pleasure. The annual salary of the family case coordinator of the family court judge shall be established by the Administrative Director of the Supreme Court of Appeals but may not exceed \$36,000: *Provided*, That on and after July 1, 2006, the annual salary of the family case coordinator of the family court judge may not exceed \$51,000. The family case coordinator will receive such percentage or proportional salary increases as may be provided by general law for other public employees and is entitled to receive the annual incremental salary increase as provided in §5-5-1 *et seq.* of this code.

(d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a bailiff is available when a family court judge determines the same is necessary for the orderly and efficient conduct of the business of the family court.

(e) Disbursement of salaries for family court judges and members of their staffs are made by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of Appeals.

(f) Family court judges and members of their staffs are allowed their actual and necessary expenses incurred in the performance of their duties. The expenses and compensation will be determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

(g) Notwithstanding any other provision of law, family court judges are not eligible to participate in the retirement system for judges under the provisions of §51-9-1 *et seq.* of this code.”

The bill was then ordered to third reading.

S. B. 610, Removing resident manager requirement for Alcohol Beverage Control Administration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 615, Declaring certain claims against state as moral obligations of state; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section one, subsection (b) following the word “from”, by deleting “general revenue fund” and inserting in lieu thereof “federal funds”;

On page two, section one, subsection (c), by striking the subdivision (1) and inserting in lieu thereof

“(1) Linda Adams-Doheny, Danny L. Boyce,
Ann E. Boyce, Janey I. Wigal
and Amy B. Thomas\$2,778.48”.

On page four, section one, subsection (i), following the word “from”, by deleting “general revenue fund” and inserting in lieu thereof “federal funds”.

On page twenty-six, section one, subsection (j), subdivision (585), following “Sandra” by striking “K” and inserting “L”.

On page forty-two, section one, subsection (k), following the word “from” by striking “general revenue fund” and inserting “state road fund”.

And,

On page forty-three, by striking out section two, in its entirety.

On motion of Delegate Householder, the bill was amended on page thirty-five, section one, by striking out subdivision 802 in its entirety and renumbering the remaining subdivisions.

The bill was then ordered to third reading.

Com. Sub. for S. B. 648, Providing dental coverage for adult Medicaid recipients; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-12a. Medicaid program; dental care.

(a) The following terms are defined:

(1) ‘Cosmetic services’ means dental work that improves the appearance of the teeth, gums, or bite, including, but not limited to, inlays or onlays, composite bonding, dental veneers, teeth whitening, or braces.

(2) ‘Diagnostic and preventative services’ means dental work that maintains good oral health and includes oral evaluations, routine cleanings, x-rays, fluoride treatment, fillings, and extractions.

(3) ‘Restorative services’ means dental work that involves tooth replacement, including, but not limited to, dentures, dental implants, bridges, crowns, or corrective procedures such as root canals.

(b) The Department of Health and Human Resources shall extend Medicaid coverage to adults age 21 and over covered by the Medicaid program for diagnostic and preventative dental services and restorative dental services, excluding cosmetic services. This coverage is limited to \$1,000 each budget year. Recipients must pay for services over the \$1,000 yearly limit. No provision in this section shall restrict the department in exercising new options provided by, or to be in compliance with, new federal legislation that further expands eligibility for dental care for adult recipients.

(c) The Department of Health and Human Resources is responsible for the implementation of, and program design for, a dental care system to reduce the continuing harm and continuing impact on the health care system in West Virginia. The dental health system design shall include oversight, quality assurance measures, case management, and patient outreach activities. The Department of Health and Human Resources shall assume responsibility for claims processing in accordance with established fee schedules and financial aspects of the program necessary to receive available federal dollars and to meet federal rules and regulations. The Department of Health and Human Resources shall seek authority from the Centers for Medicare and Medicaid Services to implement the provisions of this section.

(d) The provisions of this section enacted during the 2020 regular legislative session shall only become effective upon approval from the federal Centers for Medicare and Medicaid Services of the provider tax as set forth in §11-27-10a of this code.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 601**), and there were—yeas 84, nays 9, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, Fast, Foster, C. Martin, P. Martin, Paynter and Waxman.

Absent and Not Voting: Cowles, J. Jeffries, D. Kelly, Kump, McGeehan, Sponaugle and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

* * * * *

Mr. Speaker, Mr. Hanshaw, in the Chair

* * * * *

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 602**), and there were—yeas 85, nays 12, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, Fast, Foster, D. Jeffries, J. Jeffries, P. Martin, McGeehan, Phillips, Porterfield and Waxman.

Absent and Not Voting: Kump, Paynter and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 648) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 660, Regulating electric bicycles; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 670, Amending service of process on nonresident persons or corporate entities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 690, Permitting street-legal special purpose vehicles on highways; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee Government Organization, was reported by the Clerk on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 13. STREET-LEGAL SPECIAL PURPOSE VEHICLES.

§17A-13-1. Street-legal special purpose vehicles; operation on highways; registration procedures; licensing requirements; equipment requirements.

(a) Except as required in subsection (c) of this section, an individual may operate a ‘street-legal special purpose vehicle’ on a street or highway.

(b) For the purposes of this section:

(1) ‘Special purpose vehicle’ includes all-terrain vehicles, utility terrain vehicles, mini-trucks, pneumatic-tired military vehicles, and full-size special purpose-built vehicles, including those self-constructed or built by the original equipment manufacturer and those that have been modified.

(2) ‘Street-legal special purpose vehicle’ is a special purpose vehicle that meets the requirements of this section.

(c) An individual may not operate a special purpose vehicle as a street-legal special purpose vehicle on a highway if:

(1) The highway is a controlled-access system, including, but not limited to, interstate systems; or

(2) The county, municipality, or the Division of Natural Resources where the highway is located prohibits special purpose vehicles.

(d) Street-legal special purpose vehicles are prohibited from traveling a distance greater than 20 miles on a highway displaying centerline pavement markings.

(e) All street-legal special purpose vehicles are subject to the certificate of title provisions of §17A-1-1 et seq. of this code.

(f) Nothing in this section authorizes the operation of a street-legal special purpose vehicle in an area that is not open to motor vehicle use.

(g) A street-legal special purpose vehicle may be registered in the same manner as provided for motorcycles pursuant to this chapter.

(h) Upon registration of any street-legal special purpose vehicle pursuant to this section, the Division of Motor Vehicles shall issue a registration plate that is of the same size as Class G special registration plates for motorcycles.

(i) Except as otherwise provided in this section, a street-legal special purpose vehicle shall comply with the Division of Motor Vehicles' licensing, fee, and other requirements pursuant to this chapter.

(j) The owner of a special purpose vehicle being operated as a street-legal special purpose vehicle shall ensure the vehicle is equipped with:

(1) One or more headlamps;

(2) One or more tail lamps;

(3) One or more brake lamps;

(4) A tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(5) One or more red reflectors on the rear;

(6) Amber electric turn system, one on each side of the front;

(7) Amber or red electric turn signals;

(8) A braking system, other than a parking brake;

(9) A horn or other warning device;

(10) A muffler and, if required by an applicable federal statute or rule, an emission control system;

(11) Rearview mirrors on the right and left side of the driver;

(12) A windshield, unless the operator wears eye protection while operating the vehicle;

(13) A speedometer, illuminated for nighttime operation;

(14) For vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(15) Tires that have at least 2/32 inches or greater tire tread.

(16) When owners of a street-legal special purpose vehicle have ensured that such vehicles are equipped as required by this subsection, and those owners obtain a valid registration card and certificate of insurance for such vehicles, those vehicles are eligible to apply for a motorcycle trailer sticker.

(k) Mini-trucks may not be operated as street-legal special purpose vehicles on highways that have been constructed pursuant to a federal highways program.

(l) The Division of Motor Vehicles shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this section.”

On motion of Delegates Pushkin and Howell the amendment was amended on page three, section one, line fifty-six, following the period, by inserting the following:

“(I) Low speed vehicles as defined in §17A-1-1 of the code are not considered special purpose vehicles or street-legal special purpose vehicles under this section. However, low speed vehicles may cross state routes at traffic lights when the state route does not have a posted speed limit greater than 40 miles per hour.”

And,

On page three, section one, line fifty-seven, relabeling existing subsection “(l)” as subsection “(m)”.

The Committee on Government Organization amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 711, Relating to juvenile jurisdiction of circuit courts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 717, Relating generally to adult protective services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 719, Imposing health care-related provider tax on certain health care organizations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 722, Relating to special license plates for public and private nonprofit transit providers; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Summers, and by unanimous consent, the bill was advanced to third reading with amendments pending and the general right to amend, and the rule was suspended to permit the consideration of amendments on that reading.

Com. Sub. for S. B. 738, Creating Flatwater Trail Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 740, Clarifying authorized users of Ron Yost Personal Assistance Services Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, section twenty, line nine, by striking out “(h)” and inserting “(g)”.

And,

On page one, line ten, after the period by inserting the following: “The plan shall be completed and presented to the Legislative Oversight Commission on Health and Human Resources Accountability by January 1, 2021.”

The bill was then ordered to third reading.

S. B. 765, Modifying “Habitual Offender” statute; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 11. GENERAL PROVISIONS CONCERNING
CRIMES.**

**§61-11-18. PUNISHMENT FOR SECOND OR THIRD
OFFENSE OF FELONY.**

(a) For purposes of this section, ‘qualifying offense’ means any offenses or an attempt or conspiracy to commit any of the offenses in the following provisions of this code:

(1) §60A-4-401(i) and §60A-4-401(ii);

- (2) §60A-4-406;
- (3) §60A-4-409(b)(1), §60A-4-409(2), and §60A-4-409(3);
- (4) §60A-4-411;
- (5) §60A-4-414;
- (6) §60A-4-415;
- (7) §60A-4-416(a);
- (8) §61-2-1;
- (9) §61-2-4;
- (10) §61-2-7;
- (11) §61-2-9(a);
- (12) §61-2-9a(d) and §61-2-9a(e);
- (13) §61-2-9b;
- (14) §61-2-9d;
- (15) §61-2-10;
- (16) §61-2-10b(b) and §61-2-10b(c);
- (17) Felony provisions of §61-2-10b(d);
- (18) §61-2-12;
- (19) Felony provisions of §61-2-13;
- (20) §61-2-14;
- (21) §61-2-14a(a) and §61-2-14a(d);
- (22) §61-2-14c;
- (23) §61-2-14d(a) and §61-2-14d(b);

(24) §61-2-14f;

(25) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);

(26) §61-2-16a(a) and §61-2-16a(b);

(27) Felony provisions of §61-2-16a(c);

(28) §61-2-28(d);

(29) §61-2-29(d) and §61-2-29(e);

(30) §61-2-29a;

(31) §61-3-1;

(32) §61-3-2;

(33) §61-3-3;

(34) §61-3-4;

(35) §61-3-5;

(36) §61-3-6;

(37) §61-3-7;

(38) §61-3-11;

(39) §61-3-13(a)

(39) §61-3-27;

(40) §61-3C-14b;

(41) §61-3E-5;

(42) §61-5-17(b), §61-5-17(f), §61-5-17(h), and §61-5-17(i);

(43) §61-5-27;

(44) §61-6-24;

(45) Felony provisions of §61-7-7;

(46) §61-7-12;

(47) §61-7-15;

(48) §61-7-15a;

(49) §61-8-12;

(50) §61-8-19(b);

(51) §61-8B-3;

(52) §61-8B-4;

(53) §61-8B-5;

(54) §61-8B-7;

~~(55) §61-8B-9;~~

(56) §61-8B-10;

(57) §61-8C-2;

(58) §61-8C-3;

(59) §61-8C-3a;

(60) §61-8D-2;

(61) §61-8D-2a;

(62) §61-8D-3;

(63) §61-8D-3a;

(64) §61-8D-4;

(65) §61-8D-4a;

(66) §61-8D-5;

(67) §61-8D-6;

(68) §61-10-31;

(69) §61-11-8;

(70) §61-11-8a;

(71) §61-14-2; and

(72) §17C-5-2(b), driving under the influence causing death.

~~(a)~~ (b) Except as provided by subsection ~~(b)~~ (c) of this section, when any person is convicted of ~~an~~ a qualifying offense and is subject to confinement in a state correctional facility therefor, and it is determined, as provided in §61-11-19 of this code, that such person had been before convicted in the United States of a crime punishable by confinement in a penitentiary, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in such case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under such sentence.

~~(b)~~ (c) Notwithstanding ~~the provisions of subsection (a) or (e) of this section or any other provision of this code to the contrary,~~ when any person is convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code and it is determined, as provided in §61-11-19 of this code, that such person had been before convicted in this state of first degree murder, second degree murder, or a violation of section three, §61-8B-3 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as any offense described in this subsection, such person shall be punished by confinement in a state correctional facility for life and is not eligible for parole.

~~(e)~~ (d) When it is determined, as provided in §61-11-19 of this code, that such person shall have been twice before convicted in the United States of a crime punishable by confinement in a penitentiary which has the same elements as a qualifying offense,

the person shall be sentenced to ~~be confined~~ imprisonment in a state correctional facility for life: Provided, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: Provided, however, That an offense which would otherwise constitute a qualifying offense for purposes of this subsection and subsection (b) of this section shall not be considered if more than 20 years have elapsed between that offense and the conduct underlying the current charge.

§61-11-19. Procedure in trial of persons for second or third offense.

~~It shall be the duty of the~~ A prosecuting attorney, when he or she has knowledge of a former sentence or sentences to the penitentiary of any person convicted of an offense punishable by confinement in the penitentiary, ~~to~~ may give information thereof to the court immediately upon conviction and before sentence. Said court shall, before expiration of the next term at which such person was convicted, cause such person or prisoner to be brought before it, and upon an information filed by the prosecuting attorney, setting forth the records of conviction and sentence, or convictions and sentences, as the case may be, and alleging the identity of the prisoner with the person named in each, shall require the prisoner to say whether he or she is the same person or not. If he or she says he or she is not, or remains silent, his or her plea, or the fact of his or her silence, shall be entered of record, and a jury shall be impaneled to inquire whether the prisoner is the same person mentioned in the several records. If the jury finds that he or she is not the same person, he or she shall be sentenced upon the charge of which he or she was convicted as provided by law; but if they find that he or she is the same, or after being duly cautioned if he or she acknowledged in open court that he or she is the same person, the court shall sentence him or her to such further confinement as is prescribed by §61-11-18 of this code on a second or third conviction as the case may be: Provided, That where the person is convicted pursuant to a plea agreement the agreement shall address whether or not the provisions of this section and § 61-11-18 of this code are to be invoked.

The clerk of such court shall transmit a copy of said information to the ~~warden of the penitentiary~~ Commissioner of the Division of Corrections and Rehabilitation, together with the other papers required by the provisions of §62-8-10 of this code.

Nothing contained herein shall be construed as repealing the provisions of §62-8-4 of this code, but no proceeding shall be instituted by the warden, as provided therein, if the trial court has determined the fact of former conviction or convictions as provided herein.”

The bill was then ordered to third reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 603**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Kump, Little and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 604**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Fast, C. Martin, P. Martin, Phillips and Pushkin.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 765) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section one, following line eighteen, by inserting a new subsection to read as follows:

“(d) For purposes of this section, health plans, policies, contracts or agreements do not include Medicaid or Children’s Health Insurance Program health plans, policies, contracts or agreements that are approved by the Department of Health and Human Resources Bureau of Medical Services.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 797, Authorizing governing boards of public and private hospitals employ hospital police officers; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section nineteen, line twenty-two, following “provisions of” by striking out “§17C-2-3” and inserting in lieu thereof “§17C-1-1 *et seq.*”

On page three, section nineteen, following line fifty-two, by striking out all of subsection (f) in its entirety and relettering the remaining subsections; and

On page four, section six, line ten, by striking out “defined” and inserting in lieu thereof “provided”.

On page six, following section one, by striking out all of section five in its entirety and inserting in lieu thereof the following:

“§30-29-5. Certification requirements and power to decertify or reinstate.

(a) Except as provided in subsections (b) and ~~(g)~~ (e) of this section, a person may not be employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any state institution of higher education or by a hospital or by the Public Service Commission of West Virginia on or after the effective date of this article unless the person is certified, or is certifiable in ~~one of the manners specified in subsections~~ subsection (c) through (e), ~~inclusive~~ of this section, by the subcommittee as having met the minimum entry level law-enforcement qualification and training program requirements promulgated pursuant to this article: *Provided*, That the provisions of this section do not apply to persons hired by the Public Service Commission as motor carrier inspectors and weight enforcement officers before July 1, 2007.

(b) Except as provided in subsection ~~(g)~~ (e) of this section, a person who is not certified, or certifiable in ~~one of the manners specified in subsections~~ subsection (c) through (e), ~~inclusive~~, of this section, may be conditionally employed as a law-enforcement officer until certified: *Provided*, That within 90 calendar days of the commencement of employment or the effective date of this article, if the person is already employed on the effective date, he or she makes a written application to attend an approved law-enforcement training academy and that the person satisfactorily completes the approved law-enforcement training academy within 18 consecutive months of the commencement of his or her employment: *Provided, however*, That the subcommittee may grant an extension, one-time only, not to exceed six months, based upon a written request from the person justifying the need for such an extension: *Provided further*, That the subcommittee, in its sole discretion, may grant an additional extension upon demonstration of a hardship warranting it. The person’s employer shall provide notice, in writing, of the 90-day deadline to file a written application to the academy within 30 calendar days of that person’s commencement of employment. The employer shall provide full disclosure as to the consequences of failing to file a timely written application. The academy shall notify the applicant in writing of

the receipt of the application and of the tentative date of the applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable to his or her employing law-enforcement official, is unable to attend the scheduled training program to which he or she was admitted may reapply and shall be admitted to the next regularly scheduled training program. One year after the effective date of this section, certification as a law-enforcement officer within this state of persons who are not certifiable as provided in subsection (c) of this section, shall, in addition to graduation from an established academy in the state, be based on: Current employment as a sworn law-enforcement officer by any West Virginia law-enforcement agency or any state institution of higher education or the Public Service Commission; and the person's successful completion of an approved entry level law-enforcement examination established by legislative rule of the subcommittee, which shall include, at a minimum, written testing requirements, medical standards, physical standards, and good moral character standards conducted in accordance with such rule. The production of a record of successful passage of the approved entry level law-enforcement examination shall indicate the applicant as qualified under the law-enforcement training and certification standards within this state. An applicant who satisfactorily completes the program and successfully passes the approved entry level law-enforcement examination shall, within 30 days of completion, make written application to the subcommittee requesting certification as having met the minimum entry level law-enforcement qualification and training program requirements. Upon determining that an applicant has met the requirements for certification as set forth in this section, the subcommittee shall forward to the applicant documentation of certification. An applicant who fails to complete the training program to which he or she is first admitted, or was admitted upon reapplication, or who fails to pass the approved entry level law-enforcement examination, may not be certified by the subcommittee: Provided, however, And provided further, That an applicant who has completed the minimum training and examination required by the subcommittee may be certified as a law-enforcement officer, notwithstanding the applicant's failure to complete additional training hours required in the training program to which he or she

originally applied. If more than 24 months but less than 60 months have passed since the applicant for certification has successfully completed the approved entry level law-enforcement examination, the person may be certified but must complete the additional training set forth in legislative rules promulgated by the subcommittee addressing the recertification requirements of certified officers. If more than 60 months have passed since the applicant for certification has successfully completed the approved entry level law-enforcement examination, the person must then attend a subcommittee-approved training program and successfully complete a separate subcommittee entry level law-enforcement examination.

~~(c) Any person who is employed as a law enforcement officer on the effective date of this article and is a graduate of the West Virginia basic police training course, the West Virginia State Police cadet training program, or other approved law enforcement training academy, is certifiable as having met the minimum entry level law enforcement training program requirements and is exempt from the requirement of attending a law enforcement training academy. To receive certification, the person shall make written application within ninety calendar days of the effective date of this article to the subcommittee requesting certification. The subcommittee shall review the applicant's relevant scholastic records and, upon determining that the applicant has met the requirements for certification, shall forward to the applicant documentation of certification.~~

~~(d) Any person who is employed as a law enforcement officer on the effective date of this article and is not a graduate of the West Virginia basic police training course, the West Virginia State Police Cadet Training Program or other approved law enforcement training academy, is certifiable as having met the minimum entry level law enforcement training program requirements and is exempt from the requirement of attending a law enforcement training academy if the person has been employed as a law enforcement officer for a period of not less than five consecutive years immediately preceding the date of application for certification. To receive certification, the person shall make written~~

~~application within ninety calendar days following the effective date of this article to the subcommittee requesting certification. The application shall include notarized statements as to the applicant's years of employment as a law enforcement officer. The subcommittee shall review the application and, upon determining that the applicant has met the requirements for certification, shall forward to the applicant documentation of certification~~

(e) (c) Any person who begins employment on or after the effective date of this article as a law-enforcement officer is certifiable as having met the minimum entry level law-enforcement training program requirements and is exempt from attending a law-enforcement training academy if the person has satisfactorily completed a course of instruction in law enforcement equivalent to or exceeding the minimum applicable law-enforcement training curricula promulgated by the subcommittee. To receive certification, the person shall make written application within 90 calendar days following the commencement of employment to the subcommittee requesting certification. The application shall include a notarized statement of the applicant's satisfactory completion of the course of instruction in law enforcement, a notarized transcript of the applicant's relevant scholastic records, and a notarized copy of the curriculum of the completed course of instruction. The subcommittee shall review the application and, if it finds the applicant has met the requirements for certification, shall forward to the applicant documentation of certification. The subcommittee may set the standards for required records to be provided by or on behalf of the applicant officer to verify his or her training, status, or certification as a law-enforcement officer. The subcommittee may allow an applicant officer to participate in the approved equivalent certification program to gain certification as a law-enforcement officer in this state.

(f) (d) Except as provided in subdivisions (1) through (3), inclusive, of this subsection, any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified shall be automatically terminated and no further emoluments shall be paid to such officer by his or her employer. Any person terminated shall be entitled to reapply, as a private

citizen, to the subcommittee for training and certification, and upon being certified may again be employed as a law-enforcement officer in this state: *Provided*, That if a person is terminated under this subsection because an application was not timely filed to the academy, and the person's employer failed to provide notice or disclosure to that person as set forth in subsection (b) of this section, the employer shall pay the full cost of attending the academy if the person's application to the subcommittee as a private citizen is subsequently approved.

(1) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified as a result of hardship and/or circumstance beyond his or her control may apply to the director of a training academy for reentry to the next available academy.

(2) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified as a result of voluntary separation from an academy program shall be automatically terminated and no further emoluments may be paid to such officer by his or her employer. Any person terminated as a result of voluntary separation from an academy program may not be conditionally employed as a law-enforcement officer for a period of two years from the date of voluntary separation.

(3) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified as a result of dismissal from an academy program shall be automatically terminated and no further emoluments may be paid to such officer by his or her employer. Any person terminated as a result of dismissal from an academy program may not be conditionally employed as a law-enforcement officer for a period of five years from the date of dismissal and receiving approval from the subcommittee.

~~(g)~~ (e) Nothing in this article may be construed as prohibiting any governing body, Civil Service Commission or chief executive of any West Virginia law-enforcement agency from requiring their law-enforcement officers to meet qualifications and satisfactorily complete a course of law-enforcement instruction which exceeds

the minimum entry level law-enforcement qualification and training curricula promulgated by the subcommittee.

(h) (f) The subcommittee, or its designee, may decertify or reactivate a law-enforcement officer pursuant to the procedure contained in this article and legislative rules promulgated by the subcommittee.

(i) (g) Any person aggrieved by a decision of the subcommittee made pursuant to this article may contest the decision in accordance with the provisions of §29A-5-1 *et seq.* of this code.

(j) (h) The subcommittee may issue subpoenas for the attendance of witnesses and the production of necessary evidence or documents in any proceeding, review, or investigation relating to certification or hearing before the subcommittee.”

The bill was then ordered to third reading.

S. B. 843, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 844, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 845, Supplemental appropriation from Treasury to DHHR, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 852, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 853, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority;

on second reading, coming up in regular order, was read a second time and ordered to third reading.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4001, Creating West Virginia Impact Fund.

On motion of Delegate Kessinger, the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for H. B. 4001 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-6E-1, §12-6E-2, §12-6E-3, §12-6E-4, §12-6E-5, §12-6E-6, §12-6E-7, §12-6E-8, §12-6E-9, §12-6E-10, and §12-6E-11, all relating to creating West Virginia Impact Fund, Investment Committee and Mountaineer Impact Office to invest funds in certain projects with the goal of furthering economic development, infrastructure development, and job creation in the State of West Virginia, generally; providing definitions; creating West Virginia Impact Fund; providing for the transfer of funds to Investment Committee and the purposes for the expenditure of the funds; providing purpose and goal and investment standards; creating Investment Committee and providing for its membership, appointments, terms, removals, vacancies, and quorums; providing for powers and duties of Investment Committee; requiring disclosures of interest; establishing standard of care; creating Mountaineer Impact Office and providing for powers, duties, staffing, management, and processes for proposing and administering investments in projects approved by Investment Committee; providing for audits and reports; providing opportunity for consultation with West Virginia Investment Management Board; providing for immunities and exemptions; prohibiting political activities; and providing for confidentiality of information.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 605**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle, Dean, McGeehan and Paynter.

Absent and Not Voting: Kump, Mandt and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4001) passed.

Delegate Kessinger moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 606**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, McGeehan and Paynter.

Absent and Not Voting: Kump, Mandt and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4001) takes effect from passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

H. B. 4113, Relating to motor fuel excise taxes.

Delegate Kessinger moved that the House of Delegates concur in the following amendment of the bill by the Senate:

On page three, section nine, line sixty, by striking out the word “when”.

And,

By amending the title of the bill to read as follows:

H. B. 4113 - “A Bill to amend and reenact §11-14C-9 and §11-14C-30 of the Code of West Virginia, 1931, as amended, all relating to refundable exemptions from tax on motor fuels generally; extending certain refundable exemption from tax to tax on motor fuel used in a power take-off unit on a fuel delivery truck; and expanding certain refundable exemptions from tax on motor fuel claimable by certain taxpayers to include the variable rate component of the tax.”

Delegate Fast moved to postpone action one day.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 607**), and there were—yeas 28, nays 68, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Bartlett, Bibby, N. Brown, Butler, Byrd, Cadle, Campbell, Canestraro, Cooper, Dean, Fast, Hicks, Hornbuckle, Howell, J. Jeffries, Jennings, Lovejoy, C. Martin, P. Martin, McGeehan, Paynter, Rowan, Shott, Skaff, Staggers, Toney, Walker and Zukoff.

Absent and Not Voting: Hamrick, Kump, Miley and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the motion did not prevail.

The question before the House being the motion by Delegate Kessinger to concur in the Senate amendments, the yeas and nays were taken (**Roll No. 608**), and there were—yeas 79, nays 19, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bartlett, Bibby, Butler, Byrd, Cadle, Canestraro, Dean, Fast, Hicks, Howell, D. Jeffries, J. Jeffries, Lovejoy, C. Martin, P. Martin, McGeehan, Paynter, R. Thompson and Toney.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the House concurred.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 609**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby and Cadle.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4113) passed.

Delegate Kessinger moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 610**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Cadle and P. Martin.

Absent and Not Voting: Kump and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4113) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4409, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section thirty-three-a, by striking out the section heading and inserting in lieu thereof a new section heading, to read as follows:

“§33-3-33a. Excess moneys of Fire Protection Fund deposited into Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; other funding; special report from State Fire Marshal by December 15, 2015; termination of program June 30, 2022.”

On page one, section thirty-three-a, line ten, by striking out “2020” and inserting in lieu thereof “2022”.

And,

On page two, section thirty-three-a, line nineteen, by striking out “2020” and inserting in lieu thereof “2022”.

And,

By amending the title of the bill to read as follows:

H. B. 4409 – “A Bill to amend and reenact §33-3-33a of the Code of West Virginia, 1931, as amended, relating to transferring funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund to the Fire Service Equipment and Training Fund; and extending the sunset date to June 30, 2022.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 611**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Kump and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4409) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4576, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.

§36-3-11. Correcting errors in deeds, deeds of trust, and mortgages; affidavit.

(a) Definitions. As used in this section, unless the context requires a different meaning:

(1) ‘Attorney’ means any person licensed as an attorney in West Virginia by the West Virginia State Bar.

(2) ‘Corrective affidavit’ means an affidavit of an attorney correcting an obvious description error.

(3) ‘Local entity’ means any county, city, town, municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation, or other

corporation organized and existing under the laws of the State of West Virginia.

(4) ‘Obvious description error’ means an error in a real property parcel description contained in a recorded deed, deed of trust, or mortgage where:

(A) The parcel is identified and shown as a separate parcel on a recorded subdivision plat;

(B) The error is apparent by reference to other information on the face of the deed, deed of trust, or mortgage, or on an attachment to the deed, deed of trust, or mortgage, or by reference to other instruments in the chain of title for the property conveyed thereby; and

(C) The deed, deed of trust, or mortgage recites elsewhere the parcel’s correct address or tax map identification number.

(D) An ‘obvious description error’ includes:

(i) An error transcribing courses and distances, including the omission of one or more lines of courses, and distances or the omission of angles and compass directions;

(ii) An error incorporating an incorrect recorded plat or a deed reference;

(iii) An error in a lot number or designation; or

(iv) An omitted exhibit supplying the legal description of the real property thereby conveyed.

(E) An ‘obvious description error’ does not include:

(i) Missing or improper signatures or acknowledgments; or

(ii) Any designation of the type of tenancy by which the property is owned or whether or not a right of survivorship exists.

(5) ‘Recorded subdivision plat’ means a plat that has been prepared by a professional land surveyor licensed pursuant to W.

Va. Code §30-13A-1 et seq. of this code and recorded in the clerk's office of the circuit court for the jurisdiction where the property is located.

(6) 'Title insurance' has the same meaning as set forth in W. Va. §33-1-10(f)(4) of this code.

(7) 'Title insurance company' means the company that issued a policy of title insurance for the transaction in which the deed, deed of trust, or mortgage needing correction was recorded.

(b) Obvious description errors in a recorded deed, deed of trust, or mortgage purporting to convey or transfer an interest in real property may be corrected by recording a corrective affidavit in the office of the clerk of the county commission of the county where the property is situated or where the deed, deed of trust, or mortgage needing correction was recorded. A correction of an obvious description error shall not be inconsistent with the description of the property in any recorded subdivision plat.

(c) Prior to recording a corrective affidavit, notice of the intent to record the corrective affidavit, of each party's right to object to the corrective affidavit, and a copy of the corrective affidavit shall be served upon:

(1) All parties to the deed, deed of trust, or mortgage, including the current owner of the property;

(2) The attorney who prepared the deed, deed of trust, or mortgage, if known and if possible;

(3) To the title insurance company, if known;

(4) To the adjoining property owners;

(5) To the property address for the real property conveyed by the deed, deed of trust, or mortgage needing correction;

(6) If a local entity is a party to the deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection, to the county, city, or town attorney for the local entity,

if any, and if there is no such attorney, then to the chief executive for the local entity. For the purposes of this section, the term ‘party’ includes any local entity that is a signatory; and

(7) If the State of West Virginia is a party to the deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection, to the Attorney General and to the director, chief executive officer, or head of the state agency or chairman of the board of the state entity in possession or that had possession of the property.

(d) The notice and a copy of the affidavit shall be delivered by personal service, sent by certified mail, return receipt requested, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the last known address of each party to the deed, deed of trust, or mortgage to be corrected that:

(1) Is admitted to record in the office of the clerk of the county commission of the county in which the property is situate and where the deed, deed of trust, or mortgage needing correction was recorded;

(2) Is contained in the deed, deed of trust, or mortgage needing correction;

(3) Has been provided to the attorney as a forwarding address;
or

(4) Has been established with reasonable certainty by other means and to all other persons and entities to whom notice is required to be given.

(e) If no written objection is received from any party disputing the facts recited in the affidavit or objecting to its recordation within 30 days after personal service, or receipt of confirmation of delivery of the notice and copy of the affidavit, the attorney may record the corrective affidavit, and all parties to the deed, deed of trust, or mortgage are bound by the terms of the affidavit.

(f) The corrective affidavit shall:

(1) Be notarized;

(2) Contain a statement that no objection was received from any party within the specified time period;

(3) Confirm that a copy of the notice was sent to all the parties; and,

(4) Contain the attorney's West Virginia State Bar number.

(g) A corrective affidavit recorded pursuant to this section operates as a correction of the deed, deed of trust, or mortgage and relates back to the date of the original recordation of the deed, deed of trust, or mortgage as if the deed, deed of trust, or mortgage was correct when first recorded.

(h) A title insurance company, upon request, shall issue an endorsement to reflect the corrections made by the corrective affidavit and shall deliver a copy of the endorsement to all parties to the policy who can be found.

(i) The clerk shall record the corrective affidavit in the deed book or other book in which deeds are recorded in the county and, notwithstanding their designation in the deed, deed of trust, or mortgage needing correction, index the corrective affidavit in the names of the parties to the deed, deed of trust, or mortgage as grantors and grantees as set forth in the corrective affidavit. A corrective affidavit recorded in compliance with this section is prima facie evidence of the facts stated in the corrective affidavit.

(j) Costs associated with the recording of a corrective affidavit pursuant to this section shall be paid by the party that records the corrective affidavit.

(k) Any person who wrongfully or erroneously records a corrective affidavit is liable for actual damages sustained by any party due to the recordation, including reasonable attorney fees and costs.

(l) The remedies under this section are not exclusive and do not abrogate any right or remedy under the laws of the State of West Virginia other than this section.

(m) A corrective affidavit under this section may be made in the following form, or to the same effect:

Corrective Affidavit

This affidavit, prepared pursuant to West Virginia Code §36-3-11, shall be indexed in the names of..... (grantor(s)) whose addresses are..... and..... (grantee(s)), whose addresses are..... The undersigned affiant, being first duly sworn, deposes and states as follows:

1. That the affiant is a West Virginia attorney.

2. That the deed, deed of trust, or mortgage needing correction was made in connection with a real estate transaction in which..... purchased real estate from....., as shown in a deed recorded in the office of the clerk of the county commission of..... County, West Virginia, in Deed Book..., Page..., or as Instrument Number...; or in which real estate was encumbered, as shown in a deed recorded in the office of the clerk of the county commission of..... County, West Virginia, in Deed Book..., Page..., or as Instrument Number.....

3. That the property description in the aforementioned deed, deed of trust, or mortgage contains an obvious description error.

4. That the property description containing the obvious description error reads:

.....

.....

5. That the correct property description should read:

.....

.....

6. That this affidavit is given pursuant to West Virginia Code §36-3-11 to correct the property description in the aforementioned deed, deed of trust, or mortgage, and such description shall be as stated in paragraph 5 above upon recordation of this affidavit in the office of the clerk of the county commission of..... County, West Virginia.

7. That notice of the intent to record this corrective affidavit and a copy of this affidavit was delivered to all parties to the deed, deed of trust, or mortgage being corrected pursuant to West Virginia Code §36-3-1 and that no objection to the recordation of this affidavit was received within the applicable period of time as set forth in West Virginia Code §36-3-1.

.....

(Name of attorney)

.....

(Signature of attorney)

.....

(Address of attorney)

.....

(Telephone number of attorney)

.....

(Bar number of attorney)

The foregoing affidavit was acknowledged before me

This..... day of....., 20...., by

.....

Notary Public

My Commission expires.....

Notary Registration Number:.....

(n) Notice under this section may be made in the following form, or to the same effect:

Notice of Intent to Correct an Obvious Description Error

Notice is hereby given to you concerning the deed, deed of trust, or mortgage described in the corrective affidavit, a copy of which is attached to this notice, as follows:

1. The attorney identified below has discovered or has been advised of an obvious description error in the deed, deed of trust, or mortgage recorded as part of your real estate settlement. The error is described in the attached affidavit.

2. The undersigned will record an affidavit to correct such error unless the undersigned receives a written objection disputing the facts recited in the affidavit or objecting to the recordation of the affidavit. Your objections must be sent within 30 days of receipt of this notice to the following address:

.....

(Address)

.....

(Name of attorney)

.....

(Signature of attorney)

.....

(Address of attorney)

.....

(Telephone number of attorney)

.....

(Bar number of attorney)

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4576 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-3-11, relating to establishing a procedure for correcting errors in deeds, deeds of trust and mortgages; providing definitions; establishing that obvious description errors in a recorded deed, deed of trust or mortgage involving the transfer of interest in real property may be corrected by recorded affidavit; requiring that the correction of an obvious description error may not be inconsistent with the recorded property description; requiring notice be sent to specified persons; providing notice delivery requirements; establishing the contents of the corrective affidavit; establishing the effect of the corrective affidavit once filed; requiring a title insurance company to issue an endorsement to reflect the corrective affidavit; requiring the clerk to record and index the corrective affidavit in the deed book; establishing that a recorded affidavit is prima facie evidence of the facts stated therein; requiring associated costs be paid by the recording party; providing that a person who wrongfully records a corrective deed is liable for actual damage, reasonable costs, and attorney fees; providing that remedies under this section are not exclusive; and providing a format for the corrective affidavit and notice of an intent to correct an obvious description error.

With the further amendment, sponsored by Delegate Shott, being as follows:

On page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.

§36-3-11. Correcting errors in deeds, deeds of trust, and mortgages; corrective affidavit.

(a) Definitions. As used in this section, unless the context requires a different meaning:

(1) ‘Attorney’ means any person licensed as an attorney in West Virginia by the West Virginia State Bar.

(2) ‘Corrective affidavit’ means an affidavit of an attorney correcting an obvious description error.

(3) ‘Local entity’ means any county, city, town, municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation, or other corporation organized and existing under the laws of the State of West Virginia.

(4) ‘Obvious description error’ means an error in a real property parcel description contained in a recorded deed, deed of trust, or mortgage where:

(A) The parcel is identified and shown as a separate parcel on a recorded subdivision plat;

(B) The error is apparent by reference to other information on the face of the deed, deed of trust, or mortgage, or on an attachment to the deed, deed of trust, or mortgage, or by reference to other instruments in the chain of title for the property conveyed thereby; and

(C) The deed, deed of trust, or mortgage recites elsewhere the parcel’s correct address or tax map identification number.

(D) An ‘obvious description error’ includes:

(i) An error transcribing courses and distances, including the omission of one or more lines of courses, and distances or the omission of angles and compass directions;

(ii) An error incorporating an incorrect recorded plat or a deed reference;

(iii) An error in a lot number or designation; or

(iv) An omitted exhibit supplying the legal description of the real property thereby conveyed.

(E) An ‘obvious description error’ does not include:

(i) Missing or improper signatures or acknowledgments; or

(ii) Any designation of the type of tenancy by which the property is owned or whether or not a right of survivorship exists.

(5) ‘Recorded subdivision plat’ means a plat that has been prepared by a professional land surveyor licensed pursuant to W. Va. Code §30-13A-1 *et seq.* of this code and recorded in the clerk’s office of the circuit court for the jurisdiction where the property is located.

(6) ‘Title insurance’ has the same meaning as set forth in W. Va. §33-1-10(f)(4) of this code.

(7) ‘Title insurance company’ means the company that issued a policy of title insurance for the transaction in which the deed, deed of trust, or mortgage needing correction was recorded.

(b) Obvious description errors in a recorded deed, deed of trust, or mortgage purporting to convey or transfer an interest in real property may be corrected by recording a corrective affidavit in the office of the clerk of the county commission of the county where the property is situated or where the deed, deed of trust, or mortgage needing correction was recorded. A correction of an obvious description error shall not be inconsistent with the description of the property in any recorded subdivision plat.

(c) Prior to recording a corrective affidavit, notice of the intent to record the corrective affidavit, of each party’s right to object to the corrective affidavit, and a copy of the corrective affidavit shall be served upon:

(1) All parties to the deed, deed of trust, or mortgage, including the current owner of the property;

(2) The attorney who prepared the deed, deed of trust, or mortgage, if known and if possible;

(3) To the title insurance company, if known;

(4) To the adjoining property owners;

(5) To the property address for the real property conveyed by the deed, deed of trust, or mortgage needing correction;

(6) If a local entity is a party to the deed, deed of trust, or mortgage, the notice and a copy of the corrective affidavit required by this subsection, to the county, city, or town attorney for the local entity, if any, and if there is no such attorney, then to the chief executive for the local entity. For the purposes of this section, the term 'party' includes any local entity that is a signatory; and

(7) If the State of West Virginia is a party to the deed, deed of trust, or mortgage, the notice and a copy of the corrective affidavit required by this subsection, to the Attorney General and to the director, chief executive officer, or head of the state agency or chairman of the board of the state entity in possession or that had possession of the property.

(d) The notice and a copy of the corrective affidavit shall be delivered by personal service, sent by certified mail, return receipt requested, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the last known address of each party to the deed, deed of trust, or mortgage to be corrected that:

(1) Is admitted to record in the office of the clerk of the county commission of the county in which the property is situate and where the deed, deed of trust, or mortgage needing correction was recorded;

(2) Is contained in the deed, deed of trust, or mortgage needing correction;

(3) Has been provided to the attorney who prepared the deed, deed of trust, or mortgage as a forwarding address; or

(4) Has been established with reasonable certainty by other means and to all other persons and entities to whom notice is required to be given.

(e) If no written objection is received from any party disputing the facts recited in the corrective affidavit or objecting to its recordation within 30 days after personal service, or receipt of confirmation of delivery of the notice and copy of the corrective affidavit, the attorney may record the corrective affidavit, and all parties to the deed, deed of trust, or mortgage are bound by the terms of the corrective affidavit.

(f) The corrective affidavit shall:

(1) Be notarized;

(2) Contain a statement that no objection was received from any party within the specified time period;

(3) Confirm that a copy of the notice was sent to all the parties; and,

(4) Contain the attorney's West Virginia State Bar number.

(g) A corrective affidavit recorded pursuant to this section operates as a correction of the deed, deed of trust, or mortgage and relates back to the date of the original recordation of the deed, deed of trust, or mortgage as if the deed, deed of trust, or mortgage was correct when first recorded.

(h) A title insurance company, upon request, shall issue an endorsement to reflect the corrections made by the corrective affidavit and shall deliver a copy of the endorsement to all parties to the policy who can be found.

(i) The clerk shall record the corrective affidavit in the deed book or other book in which deeds are recorded in the county and, notwithstanding their designation in the deed, deed of trust, or mortgage needing correction, index the corrective affidavit in the names of the parties to the deed, deed of trust, or mortgage as grantors and grantees as set forth in the corrective affidavit. A

corrective affidavit recorded in compliance with this section is prima facie evidence of the facts stated in the corrective affidavit.

(j) Costs associated with the recording of a corrective affidavit pursuant to this section shall be paid by the party that records the corrective affidavit.

(k) Any person who wrongfully or erroneously records a corrective affidavit is liable for actual damages sustained by any party due to the recordation, including reasonable attorney fees and costs.

(l) The remedies under this section are not exclusive and do not abrogate any right or remedy under the laws of the State of West Virginia other than this section.

(m) A corrective affidavit under this section may be made in the following form, or to the same effect:

Corrective Affidavit

This corrective affidavit, prepared pursuant to West Virginia Code §36-3-11, shall be indexed in the names of..... (grantor(s)) whose addresses are..... and..... (grantee(s)), whose addresses are..... The undersigned affiant, being first duly sworn, deposes and states as follows:

1. That the affiant is a West Virginia attorney.
2. That the deed, deed of trust, or mortgage needing correction was made in connection with a real estate transaction in which..... purchased real estate from....., as shown in a deed recorded in the office of the clerk of the county commission of..... County, West Virginia, in Deed Book....., Page....., or as Instrument Number.....; or in which real estate was encumbered, as shown in a deed recorded in the office of the clerk of the county commission of..... County, West Virginia, in Deed Book....., Page....., or as Instrument Number.....
3. That the property description in the aforementioned deed, deed of trust, or mortgage contains an obvious description error.

4. That the property description containing the obvious description error reads:

.....
.....

5. That the correct property description should read:

.....
.....

6. That this corrective affidavit is given pursuant to West Virginia Code §36-3-11 to correct the property description in the aforementioned deed, deed of trust, or mortgage, and such description shall be as stated in paragraph 5 above upon recordation of this corrective affidavit in the office of the clerk of the county commission of..... County, West Virginia.

7. That notice of the intent to record this corrective affidavit and a copy of this corrective affidavit was delivered to all parties to the deed, deed of trust, or mortgage being corrected pursuant to West Virginia Code §36-3-1 and that no objection to the recordation of this corrective affidavit was received within the applicable period of time as set forth in West Virginia Code §36-3-1.

.....

(Name of attorney)

.....

(Signature of attorney)

.....

(Address of attorney)

.....

(Telephone number of attorney)

.....

(Bar number of attorney)

The foregoing affidavit was acknowledged before me

This..... day of....., 20...., by

.....

Notary Public

My Commission expires.....

Notary Registration Number:.....

(n) Notice under this section may be made in the following form, or to the same effect:

Notice of Intent to Correct an Obvious Description Error

Notice is hereby given to you concerning the deed, deed of trust, or mortgage described in the corrective affidavit, a copy of which is attached to this notice, as follows:

1. The attorney identified below has discovered or has been advised of an obvious description error in the deed, deed of trust, or mortgage recorded as part of your real estate settlement. The error is described in the attached affidavit.

2. The undersigned will record an affidavit to correct such error unless the undersigned receives a written objection disputing the facts recited in the affidavit or objecting to the recordation of the affidavit. Your objections must be sent within 30 days of receipt of this notice to the following address:

.....

(Address)

.....

(Name of attorney)

.....

(Signature of attorney)

.....

(Address of attorney)

.....

(Telephone number of attorney)

.....

(Bar number of attorney)

And,

With the further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4576 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-3-11, relating to establishing a procedure for correcting errors in deeds, deeds of trust and mortgages; providing definitions; establishing that obvious description errors in a recorded deed, deed of trust or mortgage involving the transfer of interest in real property may be corrected by recorded affidavit; requiring that the correction of an obvious description error may not be inconsistent with the recorded property description; requiring notice be sent to specified persons; providing notice delivery requirements; establishing the contents of the corrective affidavit; establishing the effect of the corrective affidavit once filed; requiring a title insurance company to issue an endorsement to reflect the corrective affidavit; requiring the clerk to record and index the corrective affidavit in the deed book; establishing that a recorded affidavit is prima facie evidence of the facts stated therein; requiring associated costs be paid by the recording party; providing that a person who wrongfully records a corrective deed is liable for actual damages, reasonable costs, and attorney fees; providing that remedies provided herein are not exclusive; and

providing a format for the corrective affidavit and notice of an intent to correct an obvious description error.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 612**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kump and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4576) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 240, Requiring hotels and restaurants secure manhole covers of certain grease traps.

Delegate Kessinger moved that the House of Delegates concur in the following Senate title amendment:

Com. Sub. for S. B. 240 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-6-22b; and to amend and reenact §16-6-23 of said code, all relating to requiring hotels and restaurants to secure manhole covers of certain grease traps by a certain date; providing methods for securing the manhole covers; authorizing the commissioner to specify the method of limiting access to the manhole; authorizing the promulgation of emergency rules; and increasing the civil penalty for noncompliance with the requirements of the article.”

Delegates C. Martin and Foster requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 613**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 240) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 339, Authorizing DHHR promulgate legislative rules.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out the following House of Delegates amendment on page three, line thirty-three: “2.36 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.36 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”

On page one, by striking out the following House of Delegates amendment on page three, line thirty-eight: 2.36 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64-110-10.” and inserting in lieu thereof the following:

“2.29 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”

On page two, by striking out the following House of Delegates amendment on page four, line forty-three: “2.15 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.15 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”

On page three, by striking out the following House of Delegates amendment on page four, line forty-eight: “2.19 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.19 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”

And,

On page three, by striking out the following House of Delegates amendment on page four, line fifty-three: “2.7 “Medical cannabis” means cannabis that is grown and sold which is certified for medical use in 64 CSR 110.” and inserting in lieu thereof the following:

“2.7 “Medical cannabis” means cannabis that is grown and sold pursuant to the provisions for certified medical use as set forth in the Act and in a form set forth in the provisions of §64-110-10.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 614**), and there were—yeas 83, nays 15, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Bibby, Butler, Cadle, Cooper, Cowles, Fast, D. Jeffries, Jennings, P. Martin, McGeehan, Paynter, Porterfield and Rohrbach.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 339) passed.

Delegate Kessinger moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 615**), and there were—yeas 83, nays 15, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Bibby, Butler, Cadle, Cooper, Cowles, Fast, D. Jeffries, Jennings, J. Kelly, P. Martin, McGeehan, Paynter and Porterfield.

Absent and Not Voting: Kump and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 339) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 727, Relating to disbursement of funds for highway road repair.

Delegate Kessinger moved that the House of Delegates recede from the following amendment:

On page seven, section eleven, line one hundred forty-seven, by striking out the number “\$1” and inserting in lieu thereof “\$1.50”.

And, the following title amendment:

S. B. 727 - “A Bill to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended, relating to the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund for highway road repair; providing that money from the fund is to be expended within the district where gas field and horizontal drilling waste is deposited; increasing the horizontal drilling waste assessment fee; and updating grammatical style throughout the section.”

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 616**), and there were—yeas 55, nays 43, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Cadle, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the motion to recede prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 617**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cadle, Doyle, Hott, Howell and Rowan.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 727) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with further amendment, a bill of the House of Delegates, as follows:

S. B. 849, Relating to military service as factor in certain insurance coverage rates.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, as follows:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 6. THE INSURANCE POLICY.

§33-6-40. Military service as factor in insurance rates

With respect to any fire, marine, or casualty insurance contract, no person may deny, refuse to renew, cancel coverage, or charge increased premiums for applicants or insureds solely as a result of a uniformed service member’s performance of active military duty

in the United States Armed Forces or as a member of a reserve component of the United States Armed Forces, to include the National Guard of a state or territory, because the uniformed service member fails to meet underwriting standards that require continuous coverage unless the failure to maintain continuous coverage existed prior to the applicant's or insured's entry into active duty status and was not related in any way to the applicant's or insured's military service. For the purposes of this section, service in the National Guard includes any full-time active duty for training in the National Guard, active duty operational support, active duty special work, state active duty as a member of a National Guard unit, or any other periods of service pursuant to Title 32 of the United States Code or active service of the state or territory. For purposes of determining premiums, an insurer shall consider such persons as having maintained continuous coverage."

And,

By amending the title of the bill to read as follows:

S. B. 849 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-40, relating to military service as a factor in certain insurance coverage rates generally; prohibiting an insurance company from increasing premiums when reinstating an insurance contract or writing a new policy that was previously cancelled or suspended due to active duty military service of the insured; defining terms; and creating presumption of continuous coverage when lapse occurs while insured is on active duty.”

On the passage of the bill, the yeas and nays were (**Roll No. 618**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 849) passed.

Delegate Kessinger moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 619**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Kump, Lavender-Bowe and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 849) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Conference Committee Reports

Delegate Foster, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 4275, - Relating generally to Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 4275 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate on page one, section one, line eight, and that the House and Senate agree to an amendment as follows:

On page one, section one, line eight, after the word authorized by striking out the period and inserting the following:

with the following amendments:

On page four, by striking out all of paragraph 4.1.k.1 and inserting in lieu thereof the following:

“4.1.k.1. For renovations in one- and two- family homes where no new square footage is involved arc-fault circuit interrupter (AFCI) protection shall not be required, except for in bedrooms. For renovations in one- and two- family homes where square footage is added but no electrical service is installed, arc-fault circuit interrupter (AFCI) protection shall not be required.”

And,

That the title as amended by the Senate be adopted, as follows:

Com. Sub. for H. B. 4275 - “A BILL to amend and reenact §64-6-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing agencies of the Department of Military Affairs and Public Safety to promulgate legislative rules; authorizing the rules as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature, authorizing the Fire Commission to promulgate a legislative rule relating to State Fire Code; and authorizing the Fire Commission to promulgate a legislative rule relating to State Building Code.”

Respectfully submitted,

Geoff Foster, *Chair*

Brandon Steele,
(*Did not sign*)

Nathan Brown
*Conferees on the part of
the House of Delegates.*

Ryan Weld, *Chair*

Tom Takubo,

Glenn Jeffries,
*Conferees on the part of
the Senate.*

On motion of Delegate of Delegate Foster, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 620**), and there were—yeas 61, nays 37, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Evans, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Paynter, Pethtel, Pushkin, Pyles, Rodighiero, Rohrbach, Rowe, Sponaugle, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Kump and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4275) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 621**), and there were—yeas 68, nays 30, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Evans, Fluharty, Foster, Hansen, Hicks, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Paynter, Pethtel, Rodighiero, Sponaugle, Swartzmiller, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Kump and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4275) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Hanshaw (Mr. Speaker), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 7, U. S. Navy MM2 Carl E. Keeney, U. S. Navy SN1 Frank Keeney and U. S. Army PFC Carl M. Nicholas Memorial Bridge,

Com. Sub. for H. C. R. 26, Requesting the Division of Highways name a portion of Cannelton Road “In Memory of Fallen Corrections Officers”,

Com. Sub. for H. C. R. 31, U. S. Army Air Corp PFC James W. Brown Memorial Bridge,

Com. Sub. for H. C. R. 56, U. S. Marine Corps Lance Corporal Eddie Dean Starcher Memorial Bridge,

Com. Sub. for H. C. R. 69, U. S. Air Force Senior Airman Luke Christopher Wamsley Memorial Bridge,

Com. Sub. for H. C. R. 74, U. S. Army PFC Roger Lee Carpenter Memorial Bridge,

H. C. R. 89, U. S. Army SGT James Shellace Armentrout Memorial Bridge,

Com. Sub. for H. C. R. 98, Delegate Emily Warden Yeager Memorial Bridge,

Com. Sub. for H. C. R. 101, Claude Markle Hill,

Com. Sub. for H. C. R. 108, U. S. Navy PO3 Heath “Scrappy” Shilling Memorial Road,

Com. Sub. for H. C. R. 109, U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge,

H. C. R. 110, Speaker Clyde M. See, Jr. Exit,

Com. Sub. for H. C. R. 111, U. S. Air Force Major Mary Lafferty Coll, D.O. Memorial Bridge,

And,

H. C. R. 139, U. S. Army TSGT Denver E. Short Memorial Road,

And reports the same back with the recommendation that they each be adopted.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 3rd day of March, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2149, Relating to the Farm-To-Food Bank Tax Credit,

Com. Sub. for H. B. 3127, Relating to the Secondary School Activities Commission and participation by home schooled students,

H. B. 4365, Granting of college credit hours for learning English as a second language,

H. B. 4412, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard,

And,

H. B. 4437, Relating to the West Virginia Pay Card program.

Delegate Capito, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 3rd day of March, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 4450, Relating to instruction permits issued by the Division of Motor Vehicles,

Com. Sub. for H. B. 4513, Increasing the replacement costs required of a person causing injury or death of game or protected species,

H. B. 4582, Declaring certain claims against agencies of the state to be moral obligations of the state,

H. B. 4929, Relating to the administrative closing of stale or unprogressed estates,

And,

H. B. 4969, Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations.

Miscellaneous Business

Pursuant to House Rule 132, consent was requested and obtained to print the following remarks in the Appendix to the Journal:

- Delegate Steele regarding Com. Sub. for S. B. 692

At 6:34 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, March 6, 2020.

Friday, March 6, 2020

FIFTY-NINTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Thursday, March 5, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 278 and Com. Sub. for S. B. 722, on Third Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 130, on Third Reading and Com. Sub. for S. B. 253 on Second Reading, House Calendar, had been transferred to the Special Calendar.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 5, 2020, he approved **H. B. 2922, H. B. 4166, H. B. 4179, H. B. 4353, H. B. 4381, Com. Sub. for H. B. 4470, H. B. 4476, H. B. 4515, H. B. 4601, Com. Sub. for S. B. 209, Com. Sub. for S. B. 449, Com. Sub. for S. B. 532, Com. Sub. for S. B. 544, Com. Sub. for S. B. 560, S. B. 573, S. B. 620, Com. Sub. for S. B. 623, S. B. 642 and Com. Sub. for S. B. 657.**

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2646, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-4a. Safe Harbor.

(a) An employee, in bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee’s separation of employment as contemplated by §21-5-4 of this code, is not entitled to seek liquidated damages or attorney’s fees from an employer without first making a written demand, as defined in subsection (c) of this section, to the employer seeking the payment of any alleged underpayment or nonpayment as set forth in this section: *Provided*, That upon separation or with the issuance of the final paycheck, the employer shall notify the employee in writing who the employer’s authorized representative is and where to send a written demand by both e-mail and regular mail: *Provided, however*, That if the employer fails to provide the required written notice, the employee is not required to comply with the provisions of this section. Upon receiving a written demand, the employer has seven calendar days from receipt to correct the alleged underpayment or nonpayment of the wages and fringe benefits due. If, after seven days, the employer has not corrected the alleged underpayment or nonpayment, or paid all undisputed amounts due to the employee, the employee may seek liquidated damages and attorney’s fees. Nothing in this section prohibits the employee from presenting a claim under this article without making a written demand to the employer.

(b) In a class action lawsuit brought under this article for the underpayment or nonpayment of wages and fringe benefits due upon the employees’ separation of employment, the employee,

prior to the filing of the class action, shall submit a written demand stating it is a demand for all other employees similarly situated for the underpayment or nonpayment of their wages and fringe benefits: *Provided*, That if only the underpayment or nonpayment of wages and fringe benefits of the named employee is corrected, a class action may proceed for the underpayment or nonpayment of wages and fringe benefits still owed to the other members of the class.

(c) For purposes of this section, a ‘written demand’ means any writing, including e-mail, from or on behalf of an employee stating that the employer has not paid all of the wages or fringe benefits which the employee is owed.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2646 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-4a, relating to providing a safe harbor for employers to correct underpayment or nonpayment of wages and fringe benefits due to separated employees prior to the filing of a lawsuit; prohibiting an employee from seeking liquidated damages or attorney’s fees when bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee’s separation of employment without first making a written demand to the employer; requiring the employer to inform the employee in writing of who the authorized representative is and where to send a written demand; exempting employee from compliance where employer fails to provide written notice; providing a time limit during which the employer must correct the nonpayment or underpayment; permitting an employee to file a written demand with the employer on behalf of a class; and allowing the class action to proceed if only the named employee is paid; and defining the term ‘written demand’.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 622**), and there were—yeas 53, nays 45, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, J. Jeffries, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Porterfield and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2646) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2892, Including digital and virtual information in the definition of property that can be searched and seized by a warrant.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1A. SEARCH AND SEIZURE.

§62-1A-2. Same — Grounds for issuance; property defined.

(1) A warrant may be issued under this article to search for and seize any property

(a) Stolen, embezzled, or obtained by false pretenses; ~~or~~

(b) Designed or intended for use or which is or has been used as a means of committing a criminal offense; or

(c) Manufactured, sold, kept, concealed, possessed, controlled, or designed or intended for use or which is or has been used, in violation of the criminal laws of this state ~~heretofore or hereinafter enacted.~~

(2) ~~The~~ As used in this section, the term ‘property’ shall include documents, books, and papers, electronic and digital information, including, but not limited to, social media accounts, and any other tangible objects.

(a) For purposes of this section, ‘electronic and digital information’ means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include (1) any wire or oral communication; (2) any communication made through a tone-only paging device; or (3) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

(b) A search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall state with particularity the item, application, program, or information sought.

(c) A search warrant for electronic or digital information issued pursuant to this section or Rule 41 of the Rules of Criminal Procedure may be executed or served in any state where the electronic or digital information is stored or where the person or entity in possession of the electronic or digital information does business or resides.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2892 - “A Bill to amend and reenact §62-1A-2 of the Code of West Virginia, 1931, as amended, relating to including electronic and digital information in the definition of property that can be searched and seized by a search warrant and clarifying that a search warrant issued for a computer, computer network, or other device containing electronic or digital information includes the search of the contents of that device; requiring particularity regarding items, applications, property and information to be served; clarifying that search warrants for electronic or digital information may be served or executed in any county of this state or in any state where the information to be seized is stored or where the person or entity storing the information does business or resides.”

With the further amendment, sponsored by Delegate Shott, being as follows:

On page two, section two, lines twenty through twenty-three, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

“(c) A search warrant issued pursuant to this section or Rule 41 of the Rules of Criminal Procedure may be executed or served to the extent it is constitutionally permissible anywhere the electronic or digital information is stored, capable of being produced or where the person or entity in possession of the electronic or digital information does business or resides.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 623**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Toney.

Absent and Not Voting: Atkinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2892) passed.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

H. B. 4039, Providing limitations on nuisance actions against fire department and emergency medical services.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Smith, Cline and Hardesty.

On motion of Delegate Summers, the House of Delegates agreed to the appointment of a Committee of Conference from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Bibby, J. Kelly and N. Brown.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4019, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4088, Disposition of funds from certain oil and natural gas wells due to unknown or unlocatable interest owners.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4094, Continuing the Foster Care Ombudsman.

Delegate Kessinger moved that the House concur in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 9. FOSTER CARE OMBUDSMAN PROGRAM.

§49-9-101. The Foster Care Ombudsman.

(a) There is continued within the Office of the Inspector General the position of the West Virginia Foster Care Ombudsman. The Office of the Inspector General shall employ a Foster Care Ombudsman to affect the purposes of this article.

(b) In addition to the duties provided in §9-5-27 of this code, the duties of the Foster Care Ombudsman include, but are not limited to, the following:

(1) Establishing a statewide procedure to receive, investigate, and resolve complaints filed on behalf of a foster child, foster parent, or kinship parent, or, on the Foster Care Ombudsman’s own initiative, on behalf of a foster child, relating to action, inaction, or decisions of the state agency, child-placing agency, or residential care facility which may adversely affect the foster child, foster parent, or kinship parent;

(2) Review periodically and make appropriate recommendations for the policies and procedures established by any state agency providing services to foster children, foster

parents, kinship parents, including, but not limited to, the system of providing foster care and treatment;

(3) Pursuant to an investigation, provide assistance to a foster child, foster parent, or kinship parent who the Foster Care Ombudsman determines is in need of assistance, including, but not limited to, collaborating with an agency, provider, or others on behalf of the best interests of the foster child;

(4) Recommend action when appropriate, including, but not limited to, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil, and special rights of foster children who reside in this state;

(5) Conduct programs of public education when necessary and appropriate;

(6) Have input into the creation of, and thereafter make recommendations consistent with, the foster children, foster parents, and kinship parents bill of rights;

(7) Take appropriate steps to advise the public of the services of the Foster Care Ombudsman, the purpose of the ombudsman, and procedures to contact the office; and

(8) Make inquiries and obtain assistance and information from other state governmental agencies or persons as the Foster Care Ombudsman requires for the discharge of his or her duties.

§49-9-102. Investigation of complaints.

(a) Upon receipt of a complaint filed on behalf of a foster child, foster parent, or kinship parent, on his or her own initiative or by court order within the scope of the Foster Care Ombudsman Program, the Foster Care Ombudsman shall investigate, except as provided in §49-9-102(c), any act, practice, policy, or procedure of any state agency, child-placing agency, or residential care facility which affects the health, safety, welfare, or rights of a foster child, a foster parent, or a kinship parent.

(b) Investigative activities of the Foster Care Ombudsman include, but are not limited to: information gathering, mediation, negotiation, informing parties of the status of the investigation, notification to any aggrieved party of alternative processes, reporting of suspected violations to a licensing or certifying agency, and the reporting of suspected criminal violations to the appropriate authorities.

(c) The Foster Care Ombudsman need not investigate any complaint upon determining that:

(1) The complaint is trivial, frivolous, vexatious, or not made in good faith;

(2) The complaint has been too long delayed to justify present investigation;

(3) The resources available, considering the established priorities, are insufficient for an adequate investigation;

(4) The matter complained of is not within the investigatory authority of the Foster Care Ombudsman; or

(5) A real or apparent conflict of interest exists and no other person within the office is available to investigate the complaint in an impartial manner.

(d) The Office of the Inspector General and other appropriate state governmental agencies may establish and implement cooperative agreements for receiving, processing, responding to, and resolving complaints involving state governmental agencies under the provisions of this section.

(e) Beginning with the third quarter of 2020, the Foster Care Ombudsman shall submit a written report to the Governor containing:

(1) The number of complaints;

(2) The types of complaints;

(3) The location of the complaints;

(4) How the complaints are resolved; and

(5) Any other information the Foster Care Ombudsman feels is appropriate.

(f) Beginning in December 2020, the Foster Care Ombudsman shall summarize the quarterly reports and present that information to the Legislative Oversight Commission on Health and Human Resources Accountability.

§49-9-103. Access to foster care children.

(a) The Foster Care Ombudsman shall, with proper identification, have access to a foster family home, a state agency, a child-placing agency, or a residential care facility for the purposes of investigations of a complaint. The Foster Care Ombudsman may enter a foster family home, a state agency, a child-placing agency, or a residential care facility at a time appropriate to the complaint. The visit may be announced in advance or be made unannounced as appropriate to the complaint under investigation. Upon entry, the Foster Care Ombudsman shall promptly and personally advise the person in charge of his or her presence. If entry is refused by the person in charge, the Foster Care Ombudsman may apply to the magistrate court of the county in which a foster family home, a state agency, a child-placing agency, or a residential care facility is located for a warrant authorizing entry, and the court shall issue an appropriate warrant if it finds good cause therefor.

(b) For activities other than those specifically related to the investigation of a complaint, the Foster Care Ombudsman, upon proper identification, shall have access to a foster family home, a state agency, a child-placing agency, or a residential care facility between the hours of 8:00 a.m. and 8:00 p.m. in order to:

(1) Provide information on the Foster Care Ombudsman Program to a foster child, foster parents, or kinship parents;

(2) Inform a foster child, a foster parent, or a kinship parent of his or her rights and entitlements, and his or her corresponding obligations, under applicable federal and state laws; and

(3) Direct the foster child, the foster parents, or the kinship parents to appropriate legal resources;

(c) Access to a foster family home, a state agency, a child-placing agency, or a residential care facility under this section shall be deemed to include the right to private communication with the foster child, the foster parents, or the kinship parents.

(d) A Foster Care Ombudsman who has access to a foster family home, a state agency, a child-placing agency, or a residential care facility under this section shall not enter the living area of a foster child, foster parent, or kinship parent without identifying himself or herself to the foster child, foster parent, or kinship parent. After identifying himself or herself, an ombudsman shall be permitted to enter the living area of a foster child, foster parent, or kinship parent unless that foster child, foster parent, or kinship parent communicates on that particular occasion the foster child, foster parents', or kinship parents' desire to prevent the ombudsman from entering. A foster child, foster parent, or kinship parent has the right to terminate, at any time, any visit by the Foster Care Ombudsman.

(e) Access to a foster family home, a state agency, a child-placing agency, or a residential care facility pursuant to this section includes the right to tour the facility unescorted.

§49-9-104. Access to records.

(a) The Foster Care Ombudsman is allowed access to any foster child's, foster parents' or kinship parents' records, including medical records reasonably necessary to any investigation, without fee.

(b) The Foster Care Ombudsman is allowed access to all records of any foster family home, state agency, child-placing agency, or residential care facility that is reasonably necessary for the investigation of a complaint, including, but not limited to, incident reports; dietary records; policies and procedures that a foster family home, a state agency, a child-placing agency, or a residential care facility are required to maintain under federal or

state law; admission agreements; staffing schedules; or any document depicting the actual staffing pattern.

§49-9-105. Subpoena powers.

(a) The Foster Care Ombudsman may, in the course of any investigation:

(1) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena to compel at a specific time and place, by subpoena, the appearance, before a person authorized to administer oaths, the sworn testimony of any person whom the Foster Care Ombudsman reasonably believes may be able to give information relating to a matter under investigation; or

(2) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena duces tecum to compel any person to produce at a specific time and place, before a person authorized to administer oaths, any documents, books, records, papers, objects, or other evidence which the Foster Care Ombudsman reasonably believes may relate to a matter under investigation.

(b) A subpoena or subpoena duces tecum applied for by the Foster Care Ombudsman may not be issued until a circuit court judge in term or vacation thereof has personally reviewed the application and accompanying affidavits and approved, by a signed order entered by the judge, the issuance of the subpoena or subpoena duces tecum. Subpoenas or subpoenas duces tecum applied for pursuant to this section may be issued on an ex parte basis following review and approval of the application by the judge in term or vacation thereof.

(c) The Attorney General shall, upon request, provide legal counsel and services to the Foster Care Ombudsman in all administrative proceedings and in all proceedings in any circuit court and the West Virginia Supreme Court of Appeals.

§49-9-106. Cooperation among government departments or agencies.

(a) The Foster Care Ombudsman shall have access to the records of any state government agency reasonably necessary to any investigation. The Foster Care Ombudsman shall be notified of and be allowed to observe any survey conducted by a government agency affecting the health, safety, welfare, or rights of the foster child, the foster parents, or the kinship parents.

(b) The Foster Care Ombudsman shall develop procedures to refer any complaint to any appropriate state government department, agency, or office.

(c) When abuse, neglect, or exploitation of a foster child is suspected, the Foster Care Ombudsman shall make a referral to the Bureau for Children and Families, Office of Health Facility Licensure and Certification, or both.

(d) Any state government department, agency, or office that responds to a complaint referred to it by the Foster Care Ombudsman Program shall make available to the Foster Care Ombudsman copies of inspection reports and plans of correction, and notices of any citations and sanctions levied against the foster family home, the child-placing agency, or the residential care facility identified in the complaint.

§49-9-107. Confidentiality of investigations.

(a) Information relating to any investigation of a complaint that contains the identity of the complainant or foster child, foster parent, or kinship parent shall remain confidential except:

(1) Where disclosure is authorized in writing by the complainant foster child, foster parent, kinship parent, or the guardian.

(2) Where disclosure is necessary to the Bureau for Children and Families in order for such office to determine the appropriateness of initiating an investigation regarding potential abuse, neglect, or emergency circumstances; or

(3) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to

determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both.

(b) Notwithstanding any other section within this article, all information, records, and reports received by or developed by the Foster Care Ombudsman Program which relate to a foster child, foster parent, or kinship parent, including written material identifying a foster child, foster parent, or kinship parent, are confidential pursuant to §49-5-101 *et seq.* of this code, and are not subject to the provisions of §29B-1-1 *et seq.* of this code, and may not be disclosed or released by the Foster Care Ombudsman Program, except under the circumstances enumerated in this section.

(c) Nothing in this section prohibits the preparation and submission by the Foster Care Ombudsman of statistical data and reports, as required to implement the provisions of this article or any applicable federal law, exclusive of any material that identifies any foster child, foster parent, kinship parent, or complainant.

(d) The Inspector General shall have access to the records and files of the Foster Care Ombudsman Program to verify its effectiveness and quality where the identity of any complainant or foster child, foster parent, or kinship parent is not disclosed.

§49-9-108. Limitations on liability.

(a) The Foster Care Ombudsman participating in an investigation carried out pursuant to this article who is performing his or her duties is immune from civil liability that otherwise might result by reason of his or her participation in the investigation, as long as such participation is not violative of any applicable law, rule, or regulation, and done within the scope of his or her employment and in good faith.

(b) If an act or omission by the Foster Care Ombudsman or an act in good faith pursuant to a specific foster child, foster parent, or kinship parent complaint causes a foster child's, foster parents', or kinship parents' rights to be violated, no foster family home,

state agency, child-placing agency, or residential care facility, its owners, administrators, officers, director, agents, consultants, employees, or any member of management may be held civilly liable as a result of the act or omission.

§49-9-109. Willful interference; retaliation; penalties.

(a) An individual who willfully interferes with or impedes the Foster Care Ombudsman in the performance of his or her official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(b) An individual who institutes or commits a discriminatory, disciplinary, retaliatory, or reprisal action against a foster child, foster parent, or kinship parent for having filed a complaint with or provided information in good faith to the Foster Care Ombudsman in carrying out the duties pursuant to this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(c) An individual violating the provisions of subsection (a) or (b) of this section is, for the second or any subsequent offense under either of these subsections, guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$250. Each day of a continuing violation after conviction shall be considered a separate offense.

(d) Nothing in this section infringes upon the rights of an employer to supervise, discipline, or terminate an employee for other reasons.

§49-9-110. Funding for Foster Care Ombudsman Program.

The Foster Care Ombudsman Program shall receive such funds appropriated by the Legislature for the operation of the program.”

Delegate McGeehan requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The House then concurred in the Senate amendments.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 624**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4094) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4165, West Virginia Remembers Program.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4360, Exempting certain persons from heating, ventilating, and cooling system licensing requirements.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4361, Relating to insurance law violations.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 41. INSURANCE FRAUD PREVENTION ACT.

§33-41-2. Definitions.

As used in this article:

~~(1)~~ (a) ‘Benefits’ mean money payments, goods, services, or other thing of value paid in response to a claim filed with an insurer based upon a policy of insurance.

~~(2)~~ (b) ‘Business of insurance’ means the writing of insurance, including the writing of workers’ compensation insurance under the provisions of §23-1-1 *et seq.* of this code, self-insurance by an employer or employer group for workers’ compensation risk including the risk of catastrophic injuries under the provisions of §23-1-1 *et seq.* of this code, or the reinsuring of risks by an insurer, including acts necessary or incidental to writing insurance or reinsuring risks and the activities of persons who act as or are officers, directors, agents, or employees of insurers, or who are other persons authorized to act on their behalf.

~~(3)~~ (c) ‘Claim’ means an application or request for payment or benefits provided under the terms of a policy of insurance.

~~(4)~~ (d) ‘Commissioner’ means the Insurance Commissioner of West Virginia or his or her designee.

~~(5)~~ (e) ‘Fraudulent insurance act’ means an act or omission committed by a person who knowingly and with intent to defraud misrepresents or conceals any material information concerning one or more of the following:

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, a

reinsurer, broker, or its agent, false information as part of, in support of, or concerning a fact material to one or more of the following:

(A) An application for the issuance or renewal of an insurance policy or reinsurance contract;

(B) The rating of an insurance policy or reinsurance contract;

(C) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract;

(D) Premiums paid on an insurance policy or reinsurance contract;

(E) Payments made in accordance with the terms of an insurance policy or reinsurance contract;

(F) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction;

(G) The financial condition of an insurer or reinsurer;

(H) The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one or more lines of insurance or reinsurance in all or part of this state by an insurer or reinsurer;

(I) The issuance of written evidence of insurance; or

(J) The reinstatement of an insurance policy.

(2) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer, reinsurer, or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction;

(3) Removal, concealment, alteration, or destruction of the assets or records of an insurer, reinsurer, or other person engaged in the business of insurance;

(4) Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer, reinsurer, or person engaged in the business of insurance;

(5) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of insurance; or

(6) Attempt to commit, aiding, or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subdivision.

~~(5)~~ (f) ‘Health care provider’ means a person, partnership, corporation, facility, or institution licensed by, or certified in, this state or another state, to provide health care or professional health care services, including, but not limited to, a physician, osteopathic physician, hospital, dentist, registered or licensed practical nurse, optometrist, pharmacist, podiatrist, chiropractor, physical therapist, or psychologist.

~~(6)~~ (g) ‘Insurance’ means a contract or arrangement in which a person undertakes to:

~~(A)~~ (1) Pay or indemnify another person as to loss from certain contingencies called ‘risks’, including through reinsurance;

~~(B)~~ (2) Pay or grant a specified amount or determinable benefit to another person in connection with ascertainable risk contingencies;

~~(C)~~ (3) Pay an annuity to another person;

~~(D)~~ (4) Act as surety; or

~~(E)~~ (5) Self-insurance for workers’ compensation risk, including the risk of catastrophic injuries ~~under~~ pursuant to the provisions of §23-1-1 *et seq.* of this code.

~~(7)~~ (h) ‘Insurer’ means a person entering into arrangements or contracts of insurance or reinsurance. Insurer includes, but is not

limited to, any domestic or foreign stock company, mutual company, mutual protective association, farmers' mutual fire companies, fraternal benefit society, reciprocal or interinsurance exchange, nonprofit medical care corporation, nonprofit health care corporation, nonprofit hospital service association, nonprofit dental care corporation, health maintenance organization, captive insurance company, risk retention group, or other insurer, regardless of the type of coverage written, including the writing of workers' compensation insurance or self insurance under the provisions of this code, benefits provided, or guarantees made by each. A person is an insurer regardless of whether the person is acting in violation of laws requiring a certificate of authority or regardless of whether the person denies being an insurer.

~~(8)~~ (i) 'Person' means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, trustees, an unincorporated organization, or any similar business entity, or any combination of the foregoing. 'Person' also includes hospital service corporations, medical service corporations, and dental service corporations as defined in §33-24-1 *et seq.* of this code, health care corporations as defined in, §33-25-1 *et seq.* of this code, or a health maintenance organization organized pursuant to §33-25A-1 *et seq.* of this code.

~~(9)~~ (j) 'Policy' means an individual or group policy, group certificate, contract or arrangement of insurance or reinsurance, coverage by a self-insured employer or employer group for its workers' compensation risk including its risk of catastrophic injuries or reinsurance, affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state.

~~(10)~~ (k) 'Reinsurance' means a contract, binder of coverage (including placement slip) or arrangement under which an insurer procures insurance for itself in another insurer as to all or part of an insurance risk of the originating insurer.

~~(11)~~ (l) 'Statement' means any written or oral representation made to any person, insurer or authorized agency. A statement includes, but is not limited to, any oral report or representation; any

insurance application, policy, notice or statement; any proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, or other evidence of loss, injury or expense; any bill for services, diagnosis, prescription, hospital or doctor record, X-ray, test result or other evidence of treatment, services or expense; and any application, report, actuarial study, rate request or other document submitted or required to be submitted to any authorized agency. A statement also includes any written or oral representation recorded by electronic or other media.

(12) (m) ‘Unit’ means the insurance fraud unit established pursuant to the provisions of this article acting collectively or by its duly authorized representatives.

§33-41-4a. Acceptance of forfeiture proceeds by commissioner; creation of special revenue fund; court awards of investigation costs.

(a) The commissioner may accept proceeds of court ordered forfeiture proceedings involving the prosecution of fraudulent insurance acts.

(b) Forfeiture proceeds shall be deposited into the special revenue account established in subsection (c) of this section, and the commissioner may make expenditures from the fund in order to effectuate the purposes of this article.

(c) The Insurance Fraud Prevention Fund is hereby created. The fund shall be administered by the commissioner and shall consist of all moneys made available from court ordered forfeiture proceedings involving the prosecution of fraudulent insurance acts, including all interest or other return earned from investment of the fund which may be invested in the manner permitted by §12-6C-9 of this code. Expenditures from the fund shall be for the purposes set forth in this article (to provide and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1, *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1, *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2021, expenditures are authorized from collections rather than pursuant

to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

§33-41-5. Reporting Mandatory reporting of insurance fraud or criminal offenses otherwise related to the business of insurance.

(a) A person engaged in the business of insurance having knowledge or a reasonable belief that ~~fraud~~ a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

(b) Any other person having knowledge or a reasonable belief that a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed may provide to the commissioner the information requested by, and in a manner prescribed by, the commissioner.

~~(b)~~ (c) The commissioner may prescribe a reporting form to facilitate reporting of possible ~~fraud~~ fraudulent insurance acts or other offenses related to the business of insurance for use by persons other than those persons referred to in subsection (a) of this section.

(d) Notwithstanding any other provision of this code, a person engaged in the business of insurance shall furnish and disclose any information, including documents, materials, or other information in its possession concerning a fraudulent insurance act or a suspected fraudulent insurance act to the commissioner. Disclosures provided pursuant to this section are subject to the confidentiality provisions set forth in §33-41-7 of this code.

§33-41-8. Creation of Insurance Fraud Unit; purpose; duties; personnel qualifications.

(a) There is established the West Virginia Insurance Fraud Unit within the ~~office~~ offices of the ~~Insurance Commissioner of West~~

~~Virginia~~ commissioner. The commissioner may employ full-time supervisory, legal, and investigative personnel for the unit who shall be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud within and against the insurance industry to perform the duties of their positions. The director of the ~~fraud~~ unit is a full-time position and shall be appointed by the commissioner and serve at his or her will and pleasure. The commissioner shall provide office space, equipment, and supplies, and shall employ and train personnel, including legal counsel, investigators, auditors and clerical and other staff that is necessary for the unit to carry out its duties and responsibilities under this article as the commissioner determines is necessary.

(b) ~~The fraud unit may in its discretion~~ It is the duty of the unit to:

(1) Initiate inquiries and conduct investigations when the unit has cause to believe violations of any of the following provisions of this code relating to the business of insurance have been or are being committed: §33-1-1 *et seq.* and §23-1-1 *et seq.* of this code; §61-3-1 *et seq.* of this code; and §61-4-5 of this code. Notwithstanding any provision of this code to the contrary, the ~~fraud~~ unit may, with the agreement of the Director of the Public Employees Insurance Agency, conduct investigations related to possible fraud under §5-16-1 *et seq.* of this code;

(2) Review reports or complaints of alleged fraud related to the business of insurance activities from federal, state, and local law-enforcement and regulatory agencies, persons engaged in the business of insurance and the general public to determine whether the reports require further investigation; ~~and~~

(3) Conduct independent examinations of alleged fraudulent activity related to the business of insurance and undertake independent studies to determine the extent of fraudulent insurance acts; and

(4) Perform any other duties related to the purposes of this article assigned to it by the commissioner.

(c) The ~~Insurance Fraud Unit~~ unit may:

~~(1) Employ and train personnel to achieve the purposes of this article and to employ legal counsel, investigators, auditors and clerical support personnel and other personnel as the commissioner determines necessary from time to time to accomplish the purposes of this article;~~

~~(2)~~ (1) Inspect, copy, or collect records and evidence;

~~(3)~~ (2) Serve subpoenas issued by grand juries and trial courts in criminal matters;

(3) Administer oaths and affirmations;

(4) Share records and evidence with federal, state, or local law-enforcement or regulatory agencies, and enter into interagency agreements. For purposes of carrying out investigations under this article, the unit shall be ~~deemed~~ considered a criminal justice agency under all federal and state laws and regulations and as such shall have access to any information that is available to other criminal justice agencies concerning violations of the insurance laws of West Virginia or related criminal laws;

(5) Make criminal referrals to the county prosecutors;

(6) Execute search warrants and arrest warrants for criminal violations of the insurance laws of West Virginia or related criminal laws: *Provided*, That those persons designated by the commissioner to do so meet the requirements of and are certified as law-enforcement officers under §30-29-5 of this code and the certification is currently active;

(7) Arrest upon probable cause, without a warrant a person found in the act of violating or attempting to violate an insurance law of West Virginia or related criminal law: *Provided*, That those persons designated by the commissioner to do so meet the requirements of and are certified as law-enforcement officers under §30-29-5 of this code and the certification is currently active;

~~(6)~~ (8) Conduct investigations outside this state. If the information the ~~Insurance Fraud Unit~~ unit seeks to obtain is located outside this state, the person from whom the information is sought

may make the information available to the ~~insurance fraud~~ unit to examine at the place where the information is located. The ~~Insurance Fraud Unit~~ unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the ~~Insurance Fraud Unit~~ unit, and ~~the Insurance Fraud Unit~~ may respond to similar requests from officials of other states; ~~and~~

~~(7) The Insurance Fraud Unit may initiate~~ (9) Initiate investigations and participate in the development of, and, if necessary, the prosecution of, any health care provider, including a provider of rehabilitation services, suspected of fraudulent activity related to the business of insurance; ~~and~~

(10) Initiate investigations and participate in the development of, and, if necessary, the investigation, control, and prosecution of, any workers' compensation fraud, as previously assigned to the workers' compensation fraud and abuse unit created pursuant to §23-1-1b of this code.

~~(8) (d)~~ (d) Specific personnel of the unit designated by the commissioner ~~shall be permitted to~~ may operate vehicles owned or leased for the state displaying Class A registration plates.

~~(9) (e)~~ (e) Notwithstanding any provision of this code to the contrary, specific personnel of the unit designated by the commissioner may carry firearms in the course of their official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency, and Correction, which shall include the successful completion of handgun training provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in this subsection shall be construed to include any person designated by the commissioner as a law-enforcement officer as that term is defined by the provisions of §30-29-1 of this code; and

~~(10) (f)~~ (f) The ~~Insurance Fraud Unit~~ unit ~~shall is not be~~ subject to the provisions of §6-9A-1 *et seq.* of this code and the investigations conducted by the ~~Insurance Fraud Unit~~ unit and the materials placed in the files of the unit as a result of any such investigation

are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code.

~~(d) The Insurance Fraud Unit shall perform other duties as may be assigned to it by the commissioner.~~

§33-41-11. Fraudulent claims to insurance companies acts; interference and participation of convicted felons prohibited.

~~(a) Any person who knowingly and willfully and with intent to defraud submits a materially false statement in support of a claim for insurance benefits or payment pursuant to a policy of insurance or who conspires to do so is guilty of a crime and is subject to the penalties set forth in the provisions of this section.~~

~~(b) Any person who commits a violation of the provisions of subsection (a) of this section where the benefit sought is \$1,000 or more in value is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than ten years, fined not more than \$10,000, or both, or in the discretion of the circuit court confined in jail for not more than one year and fined not more than \$10,000, or both.~~

~~(c) Any person who commits a violation of the provisions of subsection (a) of this section where the benefit sought is less than \$1,000 in value is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not more than \$2,500, or both.~~

~~(d) Any person convicted of a violation of this section is subject to the restitution provisions of article eleven a, chapter sixty one of this code.~~

~~(e) In addition to the foregoing provisions, the offenses enumerated in sections twenty four e through twenty four h, inclusive, article three, chapter sixty one of this code are applicable to matters concerning workers' compensation insurance.~~

~~(f) The circuit court may award to the unit or other law enforcement agency investigating a violation of this section or~~

~~other criminal offense related to the business of insurance its cost of investigation.~~

(a) A person shall not commit a fraudulent insurance act as defined in §33-41-2 of this code.

(b) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this article or investigations of suspected or actual violations of this article.

(c) A person convicted of a felony involving dishonesty or breach of trust, or a felony violation law reasonably related to the business of insurance, shall not participate in the business of insurance.

(d) A person in the business of insurance shall not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust, or of a felony reasonably related to the business of insurance, to participate in the business of insurance.

§33-41-11a. Insurer antifraud initiatives.

(a) Insurers shall have antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts.

(b) Antifraud initiatives may include:

(1) Fraud investigators, who may be insurer employees or independent contractors; or

(2) An antifraud plan submitted to the commissioner. Antifraud plans submitted to the commissioner are privileged and confidential, are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code, and are not subject to discovery or subpoena in a civil or criminal action.

(c) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to

set forth requirements or standards for the submission of insurer antifraud plans.

§33-41-12. Civil and criminal penalties; injunctive relief; employment disqualification; restitution.

(a) A person or entity engaged in the business of insurance or a person or entity making a claim against an insurer who violates any provision of this article may be subject to the following:

(1) Where applicable, suspension or revocation of license or certificate of authority or a civil penalty of up to \$10,000 per violation, or where applicable, both. Suspension or revocation of license or certificate of authority or imposition of civil penalties may be pursuant to an order of the commissioner issued pursuant to the provisions of §33-2-13 of this code. The commissioner's order may require a person found to be in violation of this article to make reasonable restitution to persons aggrieved by violations of this article. The commissioner may assess a person sanctioned pursuant to the provisions of this section the cost of investigation;

(2) Notwithstanding any other provision of law, a civil penalty imposed pursuant to the provisions of this section is mandatory and not subject to suspension;

(3) A person convicted of a felony violation law reasonably related to the business of insurance shall be disqualified from engaging in the business of insurance; and

(4) The commissioner may apply for a temporary or permanent injunction in any appropriate circuit court of this state seeking to enjoin and restrain a person from violating or continuing to violate the provisions of this article or rule promulgated under this article, notwithstanding the existence of other remedies at law. The circuit court shall have jurisdiction of the proceeding and have the power to make and enter an order or judgment awarding temporary or permanent injunctive relief restraining any person from violating or continuing to violate any provision of this article or rule promulgated under the article as in its judgment is proper.

(b) Any person who commits a violation of the provisions of §33-41-11 of this code where the benefit sought is \$1,000 or more in value is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than 10 years, fined not more than \$10,000, or both fined and imprisoned, or in the discretion of the court, confined in jail for not more than one year and fined not more than \$10,000, or both fined and confined.

(c) Any person who commits a violation of the provisions of §33-41-11 of this code where the benefit sought is less than \$1,000 in value is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, or fined not more than \$2,500, or both fined and confined.

(d) Any person convicted of a violation of §33-41-11 of this code is subject to the restitution provisions of §61-11A-1 of this code.

(e) A court may award to the unit or other law-enforcement agency investigating a violation of §33-41-11 of this code or other criminal offense related to the business of insurance its cost of investigation.

(f) In addition to the provisions of this section, the offenses enumerated in §61-3-24e through §61-3-24h, inclusive, of this code are applicable to matters concerning workers' compensation insurance."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4361 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-41-4a, and §33-41-11a; and to amend and reenact §33-41-2, §33-41-5, §33-41-8, §33-41-11, and §33-41-12 of said code, all relating to insurance law violations; defining 'fraudulent insurance act'; allowing Insurance Commissioner to accept proceeds from court ordered forfeiture proceedings; creating special revenue fund; providing for legislative appropriation of

fund; requiring person engaged in the business of insurance to report to the Insurance Commissioner suspected insurance law violations; permitting insurance fraud unit to administer oaths or affirmations, execute search and arrest warrants, make arrests upon probable cause without a warrant, and participate in the prosecution of workers' compensation fraud; making the commission of a fraudulent insurance act a violation of law; mandating that a person convicted of a felony involving dishonesty, breach of trust, or a law reasonably related to the business of insurance is disqualified from participating in the business of insurance; requiring insurance companies to have antifraud initiatives; allowing the Insurance Commissioner to promulgate rules; and providing for criminal penalties and restitution for insurance law violations.”

With the further amendment, sponsored by Delegate Shott, being as follows:

On page five, section four-a, line eleven, after the word “article”, by striking out the words “(to provide”.

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 625**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: J. Jeffries and Paynter.

Absent and Not Voting: Sypolt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4361) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4410, Permitting directors and executive officers of a banking institution to borrow from a banking institution with which he or she is connected.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4421, Natural Gas Liquids Economic Development Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4452, Modifying the notice requirements for the redemption of delinquent properties.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED, AND WASTE AND UNAPPROPRIATED LANDS.

§11A-3-18. Limitations on tax certificates.

(a) No lien upon real property evidenced by a tax certificate of sale issued by a sheriff on account of any delinquent property taxes may remain a lien on the real property for a period longer than 18 months after the original issuance of the tax certificate of sale.

(b) All rights of a purchaser to the property, to a lien on the property, or to any other interest in the property, including, but not limited to any right to a tax deed, shall be considered forfeited and expired, and no tax deed is to be issued on any tax sale evidenced by a tax certificate of sale where the certificate has ceased to be a

lien pursuant to the provisions of this section and application for the tax deed, pursuant to the provisions of §11A-3-27 of this code, is not pending at the time of the expiration of the limitation period provided in this section.

(c) Whenever a lien evidenced by a tax certificate of sale has expired by reason of the provisions of this section, the State Auditor shall immediately issue and record a certificate of cancellation describing the real estate included in the certificate of purchase or tax certificate and giving the date of cancellation, and the State Auditor shall also make proper entries in his or her records. The State Auditor shall also present a copy of every certificate of cancellation to the sheriff, who shall enter it in the sheriff's records, and the certificate and the record are prima facie evidence of the cancellation of the certificate of sale and of the release of the lien of the certificate on the lands described in the certificate. Failure to record the certificate of cancellation does not extend the lien evidenced by the certificate of sale. The sheriff and State Auditor are not entitled to any fees for the issuing of the certificate of cancellation, nor for the entries in their books made under the provisions of this subsection.

(d) Whenever a purchaser has complied with the notice requirements provided in §11A-3-19 of this code, but has failed to request a deed within the 18 month deadline provided in this section, thereby forfeiting all rights to a tax deed, the purchaser may recover the amounts paid in excess of the taxes owed and expenses incurred by the State Auditor in the processing of the tax lien if, within 30 days of the expiration of the lien, upon a showing of compliance with the ~~provisons~~ provisions of §11A-3-19 of this code, the purchaser files with the State Auditor a request in writing for the refund. A purchaser who fails to file the request within the 30-day period forfeits all rights to the refund.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in §11A-3-19 of this code, the purchaser may receive an additional 30 days to comply with the notice requirements set forth in §11A-3-19 of this code if, by December 1st of the year following the sale, the purchaser files with the State Auditor a request in writing for the extension and makes payment

by cash, cashier check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-5 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

(f) The State Auditor shall each month draw his or her warrant upon the Treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

§11A-3-22. Service of notice.

(a) As soon as the State Auditor has prepared the notice provided in §11A-3-21 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-19 of this code.

(b) The notice shall be served upon all persons residing or found in the state in the manner provided for serving process commencing a civil action, or by certified mail, return receipt requested, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for the notice.

~~(c) If a person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he or she shall be served at that address by certified mail, return receipt requested.~~

~~(d) If the address of a person entitled to notice, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth in this section and a copy of the notice shall at the same time be sent by certified mail, return~~

~~receipt requested, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.~~

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the State Auditor issues the required notices by certified mail, the State Auditor shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to ‘Occupant’, to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the tax lien pursuant to the provisions of §11A-3-19

of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

§11A-3-52. What purchaser must do before he or she can secure a deed.

(a) Within 45 days following the approval of the sale by the auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the deputy commissioner to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code;

(2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in ~~paragraph~~ subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied, the deputy commissioner may then sell the property in the same manner as he sells lands which have been offered for sale at public auction but which remain unsold after such auction, as provided in §11A-3-48 of this code.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he or she shall, at the time of the request, file with the deputy commissioner a written assignment to him or her of the purchaser's rights, executed,

acknowledged, and certified in the manner required to make a valid deed.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in subsection (a) of this section, the purchaser may receive an additional 30 days to comply with the notice requirements set forth in subsection (a) of this section if the purchaser files with the State Auditor a request in writing for the extension before the expiration of the time period set forth in subsection (a) of this section and makes payment by cash, cashier check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

(f) The State Auditor shall each month draw his or her warrant upon the Treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

§11A-3-55. Service of notice.

(a) As soon as the deputy commissioner has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3- 52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the deputy commissioner's sale.

(b) The notice shall be served upon all such persons residing or found in the state in the manner provided for serving process commencing a civil action or by certified mail, return receipt requested or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for such notice.

~~If any person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he shall be served at such address by certified mail, return receipt requested.~~

~~If the address of any person entitled to notice, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for such publication shall be the county in which such real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth above, and a copy of the notice shall at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served. The return of service of such notice, and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the auditor in his office, together with any return receipts for notices sent by certified mail.~~

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall be at the same time be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in

his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the deputy commissioner issues the required notices by certified mail, the deputy commissioner shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to ‘Occupant’, to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4452 - “A Bill to amend and reenact §11A-3-18, §11A-3-22, §11A-3-52, and §11A-3-55 of the Code of West Virginia, 1931, as amended, all relating generally to notice requirements on tax collections and sale of delinquent property conducted by the State Auditor; allowing purchaser extension of time for compliance with notice requirements upon written request to State Auditor and payment of fees; requiring State Auditor to pay fees for extensions of time to board of education for county where property is located; revising procedure for serving or providing notice to certain persons having interest in property to be sold.”

With the further amendment, sponsored by Delegate Shott, being as follows:

On page seven, section fifty-five, line thirty-two, after the word “shall”, by inserting a comma and striking out the word “be”.

And,

On page seven, section fifty-five, line thirty-three, after the word “time”, by inserting a comma.

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 626**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Paynter, Phillips, Porterfield and Wilson.

Absent and Not Voting: McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4452) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4484, Relating to the Hazardous Waste Management Fund.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4502, Relating to insurance adjusters.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 12B. ADJUSTERS.**§33-12B-1. Definitions.**

~~(a) An ‘adjuster’ is any individual who, for compensation, fee or commission, investigates and settles claims arising under property, casualty or surety insurance contracts, on behalf solely of either the insurer or insured. A licensed attorney who is qualified to practice law in this state is deemed not to be an adjuster for the purposes of this article~~

~~(b)~~ (a) ‘Automated claims adjudication system’ means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims which:

(1) May only be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to ~~section four a of this article~~ §33-12B-3(a)(14) of this code;

(2) Must comply with all claims payments requirements of the insurance code; and

(3) Must be certified as compliant with this section by a licensed adjuster that is an officer of the entity which employs the individuals operating pursuant to ~~section four a of this article~~ §33-12B-3(a)(14) of this code.

(b) ‘Business entity’ means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

~~(c) ‘Company adjuster’ means an adjuster representing the interests of the insurer, including an independent contractor and a salaried employee of the insurer~~ who is a staff employee of an insurance company, who is paid by the insurance company, and who investigates, negotiates, or settles claims.

(d) ‘Home state’ means the District of Columbia or any state, commonwealth, or territory of the United States in which an adjuster maintains his or her principal place of residence or

business and in which he or she is licensed to act as a resident adjuster. If a person's principal place of residence or business does not license adjusters for the type of adjuster license sought in this state, he or she shall designate as his or her home state any state in which he or she has such a license.

(e) 'Independent adjuster' means a person who:

(1) Is an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers or self-insurers;

(2) Is one whom the insurer's or self-insurer's tax treatment of the individual is consistent with that of an independent contractor, rather than as an employee, as defined in the Internal Revenue Code, United States Code, Title 26, Subtitle C; and

(3) Investigates, negotiates, or settles property, casualty, or workers' compensation claims for insurers or self-insurers.

(f) 'Individual' means a natural person.

(g) 'Insurance emergency' means a temporary situation, as declared by the commissioner pursuant to §33-2-10a of this code, when the number of licensed adjusters in this state is inadequate to meet the demands of the public.

(h) 'Person' means an individual or business entity.

(e) (j) 'Public adjuster' means ~~an independent contractor representing solely the financial interests of the insured named in the policy~~ any person who, for compensation or any other thing of value on behalf of the insured:

(1) Acts or aids, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy on behalf of an insured.

(f) ‘Crop adjuster’ means a person who adjusts crop insurance claims under the federal crop insurance program administered by the United States Department of Agriculture

§33-12B-2. License required.

(a) No person may act or hold himself, herself, or itself out as a company adjuster, an independent adjuster, or a public adjuster in this state unless the person is licensed in accordance with this article or is exempt from licensure under this article.

(b) The license shall contain the licensee’s name, address, personal identification number, the date of issuance, expiration date, and any other information the commissioner deems necessary.

(c) A person licensed as a public adjuster shall not misrepresent to a claimant that he, she, or it is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer’s behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

(d) The commissioner shall license an individual as a company adjuster, independent adjuster, or public adjuster. An individual may be licensed concurrently under separate licenses but shall not

act as an adjuster representing the interests of the insured and the insurer with respect to the same claim.

§33-12B-3. ~~Company, public and crop adjusters; concurrency; direct conflict prohibited~~ Exemptions from license requirement.

~~The commissioner shall license an individual as a company adjuster, public adjuster or crop adjuster. An individual may be licensed concurrently under separate licenses but shall not act as an adjuster representing the interests of the insured and the insurer with respect to the same claim~~

(a) Notwithstanding any other provisions of this article, a company adjuster license or independent adjuster license shall not be required of the following:

(1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;

(2) A person employed only for the purpose of obtaining facts surrounding a claim or furnishing technical assistance to a licensed company or independent adjuster;

(3) An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses, investigate or determine coverage, or determine claim payments;

(4) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle insurance claims with policyholders, claimants, or their legal representative;

(5) A licensed health care provider or its employee who is not responsible for determining compensability;

(6) A managed care organization or any of its employees or an employee of any organization providing managed care services, so long as the managed care organization or employee referenced herein is not determining compensability;

(7) A person who settles reinsurance or subrogation claims between insurers;

(8) An officer, director, or manager of an authorized insurer, surplus lines insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer;

(9) A manager of the United States branch of an alien insurer;

(10) A person who investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims;

(11) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;

(12) A licensed individual producer, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer to whom claim authority has been granted by the insurer;

(13) A business entity licensed under the authority of §33-46-1 *et seq.* of this code;

(14) Individuals who collect claim information from, or furnish claim information to, insureds or claimants, and who conduct data entry, including entering data into an automated claims adjudication system are exempt from licensure under this article: *Provided*, That the individuals are under the supervision of a licensed adjuster or licensed producer: *Provided however*, That no more than 25 persons are under the supervision of one licensed adjuster or licensed producer; or

(15) Company adjusters employed by an insurer outside of this state who adjust claims solely by telephone, fax, United States mail, and electronic mail, and who do not physically enter this state in the course of adjusting such claims: *Provided*, That such adjusters shall be subject to the jurisdiction of, and regulation by, the commissioner in regard to their adjustment of West Virginia claims: *Provided, however*, That the commissioner may require such adjusters to complete continuing education, not to exceed requirements pursuant to §33-12B-13(d) of this code, to address any deficiencies with respect to their claims handling practices.

(b) Notwithstanding any other provisions of this article, a public adjuster license shall not be required of the following:

(1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;

(2) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster;

(4) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) A person who settles subrogation claims between insurers.

§33-12B-4. License required; exception Temporary licensure for emergency company or independent adjusters.

~~No person shall in West Virginia act as or hold out to be an adjuster unless then licensed therefor pursuant to this article: *Provided*, That the provisions of this section do not apply to emergency insurance adjusters as defined in section eleven a of this article~~

(a) In the event of a declared insurance emergency, an insurer shall notify the commissioner with an application for temporary emergency licensure for each individual who will act as an emergency company adjuster or emergency independent adjuster on behalf of the insurer.

(b) A person who is otherwise qualified to adjust claims, but not already licensed in this state when the insurance emergency has been declared, may act as an emergency company or independent adjuster and adjust claims if, within five days of the declared insurance emergency, the insurer notifies the commissioner by providing the following information in a format proposed by the commissioner:

(1) Name and address of the individual;

(2) National Producer Number of the individual if the individual has a National Producer Number;

(3) Name of the insurer which the company or independent adjuster will represent;

(4) Effective date of the contract between the insurer and independent adjuster, if applicable;

(5) Insurance emergency or loss control number;

(6) Insurance emergency event name; and

(7) Any other information the commissioner deems necessary.

(c) An emergency company or independent adjuster's license shall remain in force for a period not to exceed 90 days, unless extended for an additional period by the commissioner.

(d) The fee for emergency company or independent adjuster application for licensure shall be in an amount specified in §33-12B-8 of this code. The fee shall be due and payable at the time of application for licensure.

§33-12B-4a. Exemptions from license.

[Repealed]

§33-12B-5. Qualifications for resident adjuster's license; examination; exemptions.

~~(a) For the protection of the people of West Virginia, the commissioner shall not issue, renew or permit to exist any adjuster's license, except to an individual who~~ An individual applying for a resident adjuster license shall make application to the commissioner and declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(1) Is 18 years of age or more;

(2) Is a resident of West Virginia, ~~except for nonresident adjusters as provided in section nine of this article~~ or eligible to designate West Virginia as his or her home state;

(3) ~~Satisfies the commissioner that he or she~~ Is trustworthy, and competent, reliable, and of good reputation, evidence of which may be determined by the commissioner;

(4) Has a business or mailing address in this state for acceptance of service of process or, if residing outside of this state, acknowledges that by adjusting claims in this state he or she is subject to this state's jurisdiction, pursuant to §56-3-33 of this code, and automatically appoints the West Virginia Secretary of State as his or her agent for service of process;

(5) Has not committed any act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in §33-12B-11 of this code;

(6) Has successfully passed the written examination for the line or lines of authority for which the person has applied; and

(7) Has paid the fees applicable to licensure.

(b)(1) ~~The commissioner may, at his or her discretion, test the competency of an applicant for a license under this section by examination. However, in order to qualify for a crop adjuster license, an applicant must pass a written examination that tests the knowledge of the individual concerning the insurance laws of this state and the duties and responsibilities of a multi-peril crop adjuster. In lieu of such an examination, the commissioner may accept certification that the individual has passed a proficiency examination approved by the federal Risk Management Agency~~ A resident individual applying for an adjuster license shall pass a written examination unless exempt pursuant to §33-12B-5(b)(5) or §33-12B-5(b)(6) of this code. The examination shall test the knowledge of the individual concerning the line or lines of authority for which application is made, if applicable, the duties and responsibilities of an adjuster, and the insurance laws and rules

of this state. However, to qualify for an adjuster license with the crop line of authority, the commissioner may accept, in lieu of such an examination, certification that the individual has passed a proficiency examination approved by the United States Department of Agriculture Risk Management Agency.

(2) ~~If such an examination is required~~ Each examinee shall pay a nonrefundable \$25 examination fee for each examination to the commissioner, which fees shall be used for the purposes set forth in §33-3-13 of this code. The commissioner may, at his or her discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the commissioner, and examination fees charged by such service shall be paid by the applicant.

(3) An individual who fails to appear for the examination as scheduled, or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(4) An individual who initially fails to pass an examination required by this section is limited to seven additional attempts to pass the examination.

(5) An individual who applies for an adjuster license in this state, who was previously licensed for the same lines of authority in another jurisdiction, shall not be required to complete any prelicensing examination. This exemption is only available if the individual is currently licensed in that jurisdiction, or if the application is received within 90 days of the cancellation of the applicant's previous license, and if the prior jurisdiction issues a certification that, at the time of cancellation, the applicant was in good standing in that jurisdiction or the jurisdiction's adjuster database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the adjuster is or was licensed in good standing for the line of authority requested. The certification must be of a license with the same line of authority for which the individual has applied.

(6) An individual licensed as an adjuster in another jurisdiction who moves to this state shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to this section: *Provided*, That no pre-licensing examination shall be required of that individual to obtain any line of authority previously held in the prior jurisdiction, except where the commissioner determines otherwise by rule.

(7) Examinations may be developed and conducted under rules proposed by the commissioner.

(8) Examinations required by this subsection are applicable for individual adjusters first licensed on or after July 1, 2021, or for individual adjusters who add a line of authority to an existing adjuster license on or after July 1, 2021.

(c) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on forms proposed by the commissioner and shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(1) Is eligible to designate West Virginia as its home state;

(2) Has a business or mailing address in this state for acceptance of service of process;

(3) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and rules of this state; and

(4) Has not committed an act that is a ground for probation, suspension, revocation, or refusal of an independent or public adjuster's license as set forth in §33-12B-11 of this code.

(e)(d) The requirements of this section do not apply to temporary licenses issued to emergency company adjusters or emergency independent adjusters.

§33-12B-6. Application Authorization for criminal history record check; fees.

~~(a) Application for an adjuster's license or renewal thereof or emergency adjusters' licenses shall be made to the commissioner upon a form prescribed by him and shall contain such information and be accompanied by such supporting documents as the commissioner may require, and the commissioner may require such application to be made under the applicant's oath~~ In furtherance of the national goal of promoting uniformity and reciprocity among the states, commonwealths, territories, and the District of Columbia with regard to adjuster licensing, this section sets forth the requirements to obtain access to the Federal Bureau of Investigation Criminal Justice Information Services Division criminal history record information and to secure information or reports from the Federal Bureau of Investigation Criminal Justice Information Services Division. The scope of this section is to set forth the applicability of the criminal history record check to applicants for a home state insurance adjuster license.

(b) As used in this section, the following terms have the meanings ascribed in this subsection, unless a different meaning is clearly required by the context:

(1) 'Applicant' means a natural person applying for:

(A) An initial home state license as an insurance adjuster;

(B) An additional line of authority under an existing home state insurance adjuster license where a criminal history record check has not been obtained; or

(C) A resident insurance adjuster license under change of home state provisions.

'Applicant' does not mean a person applying for renewal or continuation of a home state insurance adjuster license or a nonresident insurance adjuster license.

(2) 'Fingerprint' means an impression of the lines on the finger taken for the purpose of identification. The impression may be obtained electronically or in ink converted to an electronic format.

(c) In order to make a determination of adjuster license eligibility, the commissioner is authorized to require fingerprints of applicants and to submit the fingerprints and the fee required to perform a criminal history record check to the West Virginia State Police and to the Federal Bureau of Investigation.

(d) The commissioner shall require a criminal history record check on each applicant in accordance with this section. The commissioner shall require each applicant to submit a full set of fingerprints, including a scanned file from a hard copy fingerprint, in order for the commissioner to obtain and receive national criminal history records from the Federal Bureau of Investigation's Criminal Justice Information Services Division.

(e) The commissioner shall collect a fee from each applicant in an amount sufficient to cover:

(1) The cost of the collection and transmittal of fingerprints by persons, including local law enforcement agencies that are approved by the commissioner to capture fingerprints, to the West Virginia State Police and the Federal Bureau of Investigation; and

(2) The cost of any amounts charged by the West Virginia State Police and the Federal Bureau of Investigation to perform the criminal history record checks.

(f) The commissioner may contract for the collection and transmission of fingerprints authorized under this section and may order that the fee for collecting and transmitting fingerprints be payable directly by the applicant to the contractor.

(g) The commissioner is authorized to receive criminal history record information directly from the Federal Bureau of Investigation, in lieu of via transmission of the information from the Federal Bureau of Investigation to the West Virginia State Police.

(h) The commissioner shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under this section as confidential and shall apply security measures consistent with the Federal Bureau of Investigation's Criminal Justice Information Services Division standards for the electronic storage of fingerprints and necessary identifying information. The commissioner shall limit the use of records solely to the purposes authorized in this section. The fingerprints and the criminal history record information in the custody of the commissioner are not subject to subpoena, other than one issued in a criminal action or investigation, are confidential by law and privileged, and are not subject to discovery or admissible in evidence in any private civil action.

§33-12B-7. Issuance of license Lines of authority.

~~The commissioner may issue a license to any individual as an adjuster who complies with the applicable provisions of this chapter and who in the opinion of the commissioner is trustworthy and competent~~ (a) An independent adjuster or a company adjuster may qualify for a license in one or more of the following lines of authority:

- (1) Property and casualty;
- (2) Workers' compensation; or
- (3) Crop.

(b) A public adjuster may only qualify for a license designating a property and casualty line of authority.

§33-12B-8. License fee; exemptions fees.

(a) The annual fee for an adjuster's individual adjuster license shall be \$25. as provided in section thirteen, article three of this chapter: *Provided*, That when any other state imposes a tax, bond, fine, penalty, license fee or other obligation or prohibition on adjusters resident in this state, the same tax, bond, fine, penalty, license fee or other obligation or prohibition shall be imposed upon adjusters (where licensing of nonresident adjusters is permitted

~~under this article) of each other state licensed or seeking a license in this state. All fees and moneys so collected shall be used for the purposes set forth in section thirteen, article three of this chapter: *Provided, however,* That the provisions of this section shall not apply to emergency insurance adjusters as defined in section eleven a of this article~~

(b) The annual fee for a business entity adjuster license shall be \$200.

(c) The fee for a temporary emergency adjuster license shall be \$25.

(d) All fees collected pursuant to this section shall be used for the purposes set forth in §33-3-13 of this code.

§33-12B-9. Licensing of nonresident adjusters.

(a) A nonresident applicant for an adjuster license who holds a similar license in his or her home state may be licensed as a nonresident adjuster in this state if the applicant's home state has established, by law or regulation, like requirements for the licensing of a resident of this state as a nonresident adjuster.

(b) As a condition of continuing a nonresident adjuster license, the licensee must maintain a license in his or her home state. The commissioner may verify the adjuster's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

(c) If a nonresident adjuster desires to become a resident adjuster, he or she must apply to become one within 90 days of establishing legal residency in this state.

(d) If a nonresident adjuster has his or her license suspended, terminated, or revoked by his or her home state, the adjuster must immediately notify the commissioner of that action and, with respect to license terminations or revocations, surrender the license to the commissioner.

(e) A resident of Canada may be licensed as a nonresident adjuster under this section if that person has obtained a resident or home state adjuster license in another ~~state~~ United States jurisdiction.

§33-12B-10. Expiration of license; renewal.

(a) ~~All licenses of adjusters shall~~ The commissioner may, in his or her discretion, fix the dates of expiration of respective licenses for all adjusters in any manner as is considered by him or her to be advisable for an efficient distribution of the workload of his or her office. If the expiration date so fixed would upon first occurrence shorten the period for which a license fee has theretofore been paid, no refund of the unearned fee shall be made. If the expiration date so fixed would upon first occurrence lengthen the period for which license fee had theretofore been paid, the commissioner shall charge no additional fee for the lengthened period. If another date is not so fixed by the commissioner, each license shall, unless continued as herein above provided, expire at midnight on May 31 next following the date of issuance, and the commissioner shall renew annually the license of all such licensees who qualify, and make application therefor, and have paid the fees set forth in this article. However, the commissioner may, in his or her discretion, establish the dates of expiration of licenses in any manner deemed advisable for an efficient distribution of the workload of his or her office

(b) An adjuster whose license expires may, if application is made within one year of the expiration date, be reissued a license upon payment of twice the renewal fee.

(c) The commissioner may waive any renewal requirement for any adjuster who is unable to comply due to military service, long-term medical disability, or other extenuating circumstance.

(d) As a condition of the renewal of ~~a crop~~ an adjuster license with the designation of a crop insurance line of authority, the commissioner may require that the licensee demonstrate that he or she has maintained certification of proficiency issued or approved

by the ~~USDA~~ United States Department of Agriculture Risk Management Agency.

§33-12B-11. Denial, revocation, suspension, probation, or refusal to renew license; penalties; violations.

(a) The commissioner may examine and investigate the business affairs and conduct of persons applying for or holding an adjuster license to determine whether such person is trustworthy and competent or has been or is engaged in any violation of the insurance laws or rules of this state or in any unfair or deceptive acts or practices in any state.

(b) If the commissioner denies an initial or renewal application for a license, he or she shall notify the applicant or licensee in writing of the reason for such action. The applicant or licensee may, within 10 days of receipt of such notice, make written demand for a hearing before the commissioner to determine the reasonableness of the action, and such hearing shall be held in accordance with the provisions of §33-2-13 of this code.

(c) Whenever, after notice and hearing, the commissioner is satisfied that any adjuster has violated any provision of this chapter or of rules promulgated or proposed hereunder, or is incompetent or untrustworthy, he or she shall place the adjuster on probation or refuse to issue, revoke, suspend, or, if renewal of license is pending, refuse to renew the license of such adjuster. In addition to placing a licensee on probation or revoking, suspending, or refusing to renew or issue his or her license, the commissioner may in his or her discretion order such licensee to pay to the State of West Virginia an administrative penalty in a sum not to exceed \$1,000 for each violation. Upon the failure of ~~the~~ a licensee to pay ~~such~~ within 30 days a civil penalty imposed by the commissioner, his or her license shall be revoked or suspended by the commissioner.

(d) Each of the following shall constitute a violation under this article:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) Violating any insurance statute, rule, subpoena, or order of the commissioner or of another state's insurance commissioner;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of or pleaded nolo contendere to any felony;

(7) Having been convicted of or pleaded nolo contendere to a misdemeanor in connection with his or her activities relating to the business of insurance;

(8) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(9) Having an insurance license or its equivalent suspended, revoked, or refused in any other state, province, district, or territory;

(10) Forging any document or signature relating to an insurance transaction or fraudulently procuring a forged signature to any document related to an insurance transaction;

(11) Cheating, including improperly using notes or any other reference material, in the course of taking an examination for an insurance license;

(12) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business in this state or elsewhere;

(13) Failing to comply with an administrative or court order imposing a child support obligation; or

(14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax which remains unpaid.

~~(d)~~ (e) Orders issued pursuant to ~~subsection (b) or (c)~~ of this section are subject to the judicial review provisions of §33-2-14 of this code.

§33-12B-11a. Emergency adjusters and insurance emergencies; definitions; authorization of temporary emergency adjusters; applications; limitations and authority.

[Repealed]

§33-12B-12. Rules and regulations.

~~The commissioner is authorized to promulgate such rules and regulations as are necessary to effectuate the provisions of this article. Such rules and regulations shall be promulgated and adopted pursuant to the provisions of chapter twenty nine a of this code. may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article.~~

§33-12B-13. Continuing education.

(a) The purpose of this section is to provide continuing education requirements for individual adjusters under guidelines established by the commissioner's office in conjunction with the Board of Insurance Agent Education as provided in §33-12-7 of this code.

(b) This section applies to company adjusters, independent adjusters, and public adjusters licensed pursuant to §33-12B-2 of this code.

(c) This section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) Licensees holding nonresident adjuster licenses who have met substantially similar continuing education requirements of their designated home state and whose home state gives credit to residents of this state on the same basis.

(d)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code shall develop a program of continuing education for adjusters and submit the proposal for the approval of the commissioner on or before December 31 of each year. No program may be approved by the commissioner that includes a requirement that any individual adjuster complete more than 24 hours of continuing insurance education biennially.

(2) The biennium mandatory continuing education provisions of this section become effective on the reporting period beginning July 1, 2021.

(3) The commissioner and the Board of Insurance Agent Education, under standards established by the board, may approve any course or program of instruction developed or sponsored by an authorized insurer, accredited college or university, adjusters' association, insurance trade association, or independent program of instruction that presents the criteria and the number of hours that the board and commissioner determine appropriate for the purpose of this section.

(e) An individual who holds an adjuster license and who is not exempt shall satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must be in ethics, reported to the commissioner on a biennial basis in conjunction with their license renewal cycle.

(f) Every individual adjuster subject to the continuing education requirements shall furnish, at intervals and on forms as may be proposed by the commissioner, written certification listing the courses, programs, or seminars of instruction successfully completed by the adjuster. The certification shall be executed by,

or on behalf of, the organization sponsoring the courses, programs, or seminars of instruction.

(g) Subject to the approval of the commissioner, the active annual membership by an adjuster in an organization or association recognized and approved by the commissioner as a state, regional, or national professional insurance organization or association may be approved by the commissioner for up to two hours of continuing insurance education: *Provided*, That not more than two hours of continuing education may be awarded to an adjuster for membership in a professional insurance organization during a biennial reporting period.

(h) Adjusters who exceed the minimum continuing education requirement for the biennial reporting period may carry over a maximum of six credit hours only into the next reporting period.

(i) Any individual adjuster failing to meet the requirements mandated in this section and who has not been granted an extension of time with respect to the requirements, or who has submitted to the commissioner a false or fraudulent certificate of compliance, shall have his or her license automatically suspended and no further license may be issued to the person until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements mandated by this section and all other applicable laws or rules.

(j) The commissioner shall notify the individual adjuster of his or her suspension pursuant to subsection (i) of this section by certified mail, return receipt requested, to the last address on file with the commissioner pursuant to §33-12B-2(b) of this code. Any individual insurance adjuster who has had a suspension order entered against him or her pursuant to this section may, within 30 calendar days of receipt of the order, file with the commissioner a request for a hearing for reconsideration of the matter.

(k) Any individual adjuster who does not satisfactorily demonstrate compliance with this section and all other laws applicable thereto as of the last day of the biennium following his or her suspension shall have his or her license automatically

terminated and is subject to the licensing and examination requirements of §33-12B-5 of this code.

(l) The commissioner is authorized to hire personnel and make reasonable expenditures considered necessary for purposes of establishing and maintaining a system of continuing education for adjusters. The commissioner shall charge a fee of \$25 to continuing education providers for each continuing education course submitted for approval which shall be used to maintain the continuing education system. The commissioner may, at his or her discretion, designate an outside administrator to provide all of or part of the administrative duties of the continuing education system subject to direction and approval by the commissioner. The fees charged by the outside administrator shall be paid by the continuing education providers. In addition to fees charged by the outside administrator, the outside administrator shall collect and remit to the commissioner the \$25 course submission fee.

§33-12B-15. Effective date for 2020 amendments.

The effective date of the amendments made to this article during the 2020 regular legislative session is July 1, 2021.”

And,

By amending the title of the bill to read as follows:

H. B. 4502 - “A Bill to repeal §33-12B-4a and §33-12B-11a of the Code of West Virginia, 1931, as amended; to amend and reenact §33-12B-1, §33-12B-3, §33-12B-4, §33-12B-5, §33-12B-6, §33-12B-7, §33-12B-8, §33-12B-9, §33-12B-10, §33-12B-11, and §33-12B-12 of said code; and to amend said code by adding thereto three new sections, designated §33-12B-2, §33-12B-13, and §33-12B-15, all relating to insurance adjusters; defining terms; providing licensure requirements for company, independent, and public adjusters; providing exceptions to adjuster license requirements; permitting temporary licensure; providing for qualifications for a resident adjuster license; authorizing the Insurance Commissioner to conduct criminal history checks for prospective adjusters; requiring fingerprinting; authorizing

imposition of fees and civil penalties; specifying jurisdiction and agent for service of process; authorizing change in license expiration date without fee refund or increase; providing for adjuster lines of authority; providing for probation, suspension, revocation, refusal, or termination of adjuster license; requiring adjusters to complete continuing education; requiring Board of Insurance Agent Education to develop program of continuing education for adjusters; authorizing rulemaking; and providing for an effective date.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 627**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby, J. Jeffries, Maynard, McGeehan, Paynter and Wilson.

Absent and Not Voting: Householder.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4502) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4524, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

Delegate Summers asked unanimous consent that the bill be taken up for immediate consideration, which request was not granted, objection being heard.

Subsequently, on motion of Delegate Summers, the bill was taken up for immediate consideration.

On motion of Delegate Summers, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 60. STATE CONTROL OF ALCOHOLIC
LIQUORS**

ARTICLE 5. LOCAL OPTION ELECTIONS.

§60-5-1. Election in county, magisterial district or municipality.

A county ~~magisterial district~~ or any municipality may in an election held especially for the purpose, determine whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county ~~magisterial district~~ or municipality.

A local option election shall not be held within 60 days of a general or municipal election.

§60-5-2. Election called on petition of five percent of qualified voters.

The county commission, or the governing body of the municipality, ~~as the case may be~~, shall call a special local option election upon the filing of a petition signed by not less than five percent of the qualified voters within the county ~~a magisterial district~~ or municipality.

§60-5-3. Form of petition.

The petition shall be in the following form:

Petition for Local Option Election

We, the undersigned legally qualified voters, resident within the county ~~(magisterial district)~~ (municipality) of _____, do hereby petition that a special election be held within the county (city, town) of _____ on the _____ day of _____, 1920 _____, upon the following question:

Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control Commissioner be (permitted) (prohibited) in _____?

Name Address Date

(Post office or street and number)

§60-5-4. Notice of election; when held; election officers.

The county ~~court~~ commission or governing body of the municipality shall give notice of the special local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area in which the election is to be held. Such notice shall be so published within 14 consecutive days next preceding the election. The election shall be held not more than 90 nor less than 60 days from the filing of the petition. The regular election officers of the county or municipal corporation shall open the polls and conduct the election in the same manner provided for general elections.

§60-5-5. Form of ballot.

On the ballot shall be printed the following:

Shall the sale of alcoholic ~~beverages~~ liquors for off-premises consumption under the West Virginia ~~liquor~~ Alcohol Beverage Control ~~commission~~ Commissioner be permitted in.....?

Yes.

No.

(Place a cross mark in the square opposite your choice.)

§60-5-6. How election conducted and results certified.

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the ~~county-court~~ commission of the county, or the governing body of the municipality. ~~as the case may be.~~ The county ~~court~~ commission or governing body shall without delay certify the result of the election to the ~~commission-commissioner.~~

§60-5-7. Discontinuance of state stores and agencies in local option territory.

Within 30 days after a local option election in which a majority has voted No, the ~~commission~~ commissioner shall ~~close~~ order the closing of all state stores selling alcoholic liquor for off-premises consumption within the county, ~~the magisterial district~~ or municipality.

§60-5-8. When another election may be held.

When a local option election has been held in a county, a ~~magisterial district~~ or municipality, another such election shall ~~may~~ not be held for a period of two years.

§60-5-9. Allowing state-wide off premises of alcoholic liquors; exceptions; procedures.

(a) Effective July 1, 2020, the sale of alcoholic liquors for off-premises consumption is authorized in all counties and municipalities of the state.

(b) Notwithstanding the provisions of subsection (a) of this section, a county or municipality which prior to January 1, 2020, prohibited the sale of alcoholic liquors for off-premises consumption may, pursuant to this article, hold an election to maintain the prohibition against the sale of alcoholic liquors for off-premises consumption; :Provided, That a county commission or the governing body of a municipality may, without the petition required by the provisions of §60-5-2 of this code, enter an order to hold a local election option on the issue of whether to maintain the prohibition against the sale of alcoholic liquors for off-premises

consumption based upon a majority vote of the county commission or governing body of the municipality if such order is entered on or before July 1, 2020, in which event the election shall be held concurrent with the 2020 general election. The County Commission or municipality may require the state to reimburse it for the actual cost of conducting the election authorized by this subsection.

(c) A county or municipality which prohibits the sale of alcoholic liquors for off-premises consumption pursuant to subsection (b) of this section may later reconsider its action using the procedures set forth in §60-5-1 *et seq.* of this code.”

And,

By amending the title of the bill to read as follows:

H. B. 4524 - “A Bill to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6, §60-5-7, §60-5-8, of the code of West Virginia, as amended and to further amend said code by adding thereto a new section, designated §60-5-9, all relating to the off-premises sale of alcoholic liquors generally; allowing the off-premises sale of alcoholic liquors in every county and municipality in the state; creating procedures for counties and municipalities which prohibited off-premises sale of alcoholic liquors prior to January 1, 2020 to hold a local option election to retain the prohibition; allowing counties and municipalities which prohibit the off premises sale of alcoholic liquors to hold a local option election to reconsider the action; and updating code language.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4581, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section one, line twenty-eight, by striking out the words “of a covered provider”.

On page two, section one, line thirty-one, by striking out the words “a covered provider” and inserting in lieu thereof the words “the department, a covered provider,”.

And,

On page four, section two, line fifteen, by striking out the words “the covered provider” and inserting in lieu thereof the words “the department, the covered provider,”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 628**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Skaff.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4581) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4589, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-3. Commission on the Arts.

(a) The Commission on the Arts is continued and shall be composed of 15 appointed voting members and the ex officio nonvoting members set forth or authorized for appointment in this section.

(b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight voting members may be of the same political party. Effective July 1, 2004, no more than three voting members may be from the same regional educational service agency district created in §18-2-26 of this code. Voting members of the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state, and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the voting members constitute a quorum for the transaction of business. The director of the arts section shall be an ex officio nonvoting member of the commission and shall serve as secretary. The director or a majority of the members also may call a meeting upon notice as provided in this section.

(4) Each voting member or ex officio nonvoting member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the duties of the office; except that in the event the expenses are paid, or are to be paid, by a third party,

the member or ex officio member, as the case may be, shall not be reimbursed by the state.

(5) Upon recommendation of the commissioner, the Governor also may appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission may:

(1) Advise the commissioner and the director of the arts section concerning the accomplishment of the purposes of that section and establish a state plan with respect to the arts section;

(2) Approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;

(3) Request, accept, or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit those actions by the commissioner or section director, but would permit them to be done by the commission on the arts;

(4) Otherwise encourage and promote the purposes of the arts section;

(5) Approve rules concerning the professional policies and functions of the section as promulgated by the director of the arts section; and

(6) Advise and consent to the appointment of the director by the commissioner.

(d) A special revenue account in the State Treasury, known as the 'Cultural Facilities and Capital Resources Matching Grant Program Fund', is continued. The fund shall consist of moneys received under §29-22A-10 of this code and funds from any other source. The moneys in the fund shall be expended in accordance with the following:

(1) Fifty percent of the moneys deposited in the fund shall be expended by the Commission on the Arts for capital improvements, preservation, and operations of cultural facilities: *Provided*, That

the Commission on the Arts may use no more than 25 percent of the funding for operations of cultural facilities pursuant to the rule required by this subdivision: ~~Provided, however, That the commission shall make a women's veterans memorial statue a priority when expending the funds: Provided further, That the commission shall submit the plans for the statue to the secretary of administration for his or her approval.~~ The Commission on the Arts shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to create a matching grant program for cultural facilities and capital resources; and

(2) Fifty percent of the moneys deposited in the fund shall be expended by the Division of Culture and History for:

(A) Capital improvements, preservation, and operation of cultural facilities that are managed by the division; and

(B) Capital improvements, preservation, and operation of cultural facilities that are not managed by the division.

(e) The commission shall undertake a study, solicit designs, and make recommendations for the establishment of an appropriate memorial on state capitol grounds for soldiers killed in the conflicts in Iraq, Afghanistan, and other locations who died fighting the United States War on Terror, and to recognize and honor the West Virginians who lost their lives in these conflicts. The commission shall consult with the Capitol Building Commission and state veterans, including veterans groups and Gold Star mothers of those lost in these conflicts, prior to adoption of a proposal for the memorial. The commission shall provide a report to the Legislature's Joint Committee on Government and Finance by January 1, 2022, including recommendations for design and location of the memorial and estimated construction costs."

And,

By amending the title of the bill to read as follows:

H. B. 4589 - "A Bill to amend and reenact §29-1-3 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that the Commission on the Arts prioritize a women's

veterans memorial statue, and causing a requiring a study and recommendations by the Commission on the Arts on the construction and design of a memorial to honor West Virginians killed in the United States War on Terror.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 629**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4589) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4618, Relating to deadly weapons for sale or hire.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

H. B. 4887, Relating to revocation, cancellation, or suspension of business registration certificates.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Clements, Azinger and Jeffries.

On motion of Delegate Summers, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates C. Martin, Barnhart and Angelucci.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 59 - "Requesting the Division of Natural Resource to name the planned special event shelter that is to be put out for bid for construction in the Watters Smith Memorial State Park as the 'Rachel Hershey Smith Memorial Shelter'."

Whereas, Watters Smith was born in Trenton, New Jersey, on July 15, 1767; and

Whereas, Watters Smith married Elizabeth Davisson, and settled in Harrison County on his father's 1,000-acre tract of land, in what was then the state of Virginia; and

Whereas, Watters Smith purchased 112 acres adjacent to his father's land in 1792; and

Whereas, Watters Smith and Elizabeth Davisson Smith cleared the rugged, remote land, planted crops, and built a cabin for their family, which eventually grew to eight children; and

Whereas, Watters Smith constructed a blacksmith, shop fashioning tools to build his cabin; and

Whereas, Upon the death of Watters Smith, the property was bequeathed to Watters Smith, Jr., who then bequeathed the property to his son, John Smith; and

Whereas, Ownership of the property eventually fell to Alexander Smith, who was born in 1847, and who built the home now known as the Smith family residence, to replace the original cabin built by Watters Smith; and

Whereas, Four generations of the Smith family operated the farm as a business; and

Whereas, Burr Smith, the great-great-grandson of Watters Smith, left his portion of the Watters Smith property to the State of West Virginia in 1949 to be developed into a park to honor his ancestors; and

Whereas, Rachel Smith Hershey, a life-long resident of Harrison County and descendant of Watters Smith, also generously donated her portion of the Watters Smith property to the State of West Virginia in 1975; and

Whereas, The park has become a permanent location for many of the tools and equipment used by generations of Smiths on the farm, and they are on display at the Smith homestead, in the museum, and outbuildings; and

Whereas, Rachel Smith Hershey added antiques, furnishings, and a sizable collection of West Virginia glassware in further generous donations to the park; and

Whereas, Watters Smith Memorial State Park now comprises of 532 acres and includes the museum, the Smith family residence, and many other historical buildings; and

Whereas, The Watters Smith Memorial State Park includes amenities such as picnic areas and shelters, playgrounds, hiking trails, a superintendent's house, and a log cabin relocated from Beech Fork State Park; and

Whereas, The State of West Virginia will continue adding and improving amenities to Watters Smith Memorial State Park including planned construction of a deluxe special event shelter with a kitchen, restroom, and amphitheater to serve not only the citizens of that area but also tourists from around the nation; and

Whereas, It is indisputable that without the generous donations by generations of Watters Smith's family, the citizens of the State of West Virginia would not have the pleasure and benefit of the park, including the authentic Smith homestead and displays of early life in West Virginia from the late 1700s to the early 1900s; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Natural Resources is hereby requested to name the planned special event shelter that is to be put out for bid for construction in the Watters Smith Memorial State Park as the "Rachel Hershey Smith Memorial Shelter"; and, be it

Further Resolved, That the Division of Natural Resources is hereby requested, on completion of the shelter, to have made and be placed signs identifying the shelter as the "Rachel Smith Hershey Memorial Shelter"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Director of the Division of Natural Resources.

In the absence of objection, **Com. Sub. for H. B. 2892** was taken up for further consideration.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 630**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Toney.

Absent and Not Voting: N. Brown, Capito, Pushkin and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2892) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Resolutions Introduced

Delegate Hill offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 142 - “Requesting a study to modernize the state’s organ donation system to ensure that it supports West Virginia’s support of organ and tissue donation.”

Whereas, Approximately 113,000 Americans are currently on waitlists for lifesaving organ transplants – 20 of whom die each day; and

Whereas, The leading causes of traumatic brain injury are motor vehicle crashes, falls, being struck by or against objects, and assault; and

Whereas, Someone is added to the organ donation waiting list every 10 minutes, and over 500 of those awaiting a life-saving organ transplant are West Virginians; and

Whereas, One person can donate up to eight lifesaving organs; and

Whereas, West Virginia proved strong support of organ donation by being one of the first states in the nation to provide an organ donation registration option in the hunting and fishing licensing process; and

Whereas, Transplantation is one of the most remarkable success stories in the history of medicine. It gives a second chance

at life to thousands of people facing organ failure and provides many others with active and renewed lives. But despite continuing advances in medicine and technology, the need for organs and tissues is vastly greater than the number available for transplantation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study to modernize the state's organ donation system to ensure that it supports West Virginia's support of organ and tissue donation; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 143 — “Requesting the Joint Committee on Government and Finance study and analyze the continued impact of human trafficking in West Virginia and improved methods to minimize, deter, and prevent human trafficking and facilitate effective treatment for victims of human trafficking.”

Whereas, Human trafficking is an under-reported crime in West Virginia that affects hundreds of children and families throughout the state; and

Whereas, Victims of human trafficking may be exploited by a broad spectrum of sources and methods which may otherwise appear legitimate; and

Whereas, Minimizing, deterring, and preventing the sources and methods of human and sex trafficking is important to reducing the physical and emotional damage inflicted by perpetrators upon victims which in turn impacts the state economy and cost of government services; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study and analyze the continued impact of human trafficking in West Virginia and improved methods to minimize, deter, and prevent human trafficking and facilitate effective treatment for victims of human trafficking; and, be it

Further Resolved, That the study include an examination of the highest risk sources and methods of human trafficking of the children and youth of West Virginia; and, be it

Further Resolved, That the study consider that with the rise in grand-families, many elder guardians are not well versed in the hazards of technology and social media, and thus may not be aware of the victimization and grooming of children and adolescents that takes place by perpetrators of human trafficking and sexual abuse; and, be it

Further Resolved, That the study seek best practices related to train and educate service providers and community resources, especially those who are mandated reporters, to recognize the risk factors of human trafficking and appropriately report and potentially intervene on behalf of young victims; and, be it

Further Resolved, That the study determine best practices in prevention through age-appropriate education of children and teens related to avoiding high risk behavior and locations; and, be it

Further Resolved, That not later than 60 days prior to the beginning of the 2021 regular session of the Legislature, the Joint Committee on Government and Finance report on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct a study, prepare reports, and draft necessary legislation be paid from legislative appropriates to the Joint Committee on Government and Finance.

And,

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 144 - “Requesting the Joint Committee on Government and Finance study ongoing issues relating to providing resources and processes to support and assist ‘Grandfamilies’ caring for minor children in West Virginia.”

Whereas, Approximately 35,000 West Virginian children under the age of 18 live with grandparents; and

Whereas, Approximately 21,000 grandparents are householders responsible for their grandchildren who live with them; and

Whereas, Approximately 46.5 percent of these grandparents are in the workforce; and

Whereas, Approximately 20.9 percent of these grandparents are in poverty; and

Whereas, Federal and state public benefits programs can help with income, food, healthcare, home energy, and other needs for eligible grandfamilies; and

Whereas, Application for federal financial aid for college education continues to be a challenge for minors living with grandfamilies; and

Whereas, There should be multiple processes for grandparents in grandfamily arrangements to easily obtain financial and emotional support, respective forms for assistance programs, and leadership tools for grandfamilies; therefore, be it

Resolved by the Legislature of West Virginia:

That the Committee on Government and Finance is hereby requested to study ongoing issues relating to providing resources and processes to support and assist “Grandfamilies” caring for minor children in West Virginia; and, be it

Further Resolved, That the Committee on Government and Finance is hereby requested to research the feasibility of revisions to state law that could help facilitate minors living with grandfamilies in their applications for federal financial aid for college education; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the 2021 regular session of the Legislature on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct a study, prepare reports, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Unfinished Business

S. C. R. 4, Urging Congress call convention to propose amendment on congressional term limits; on unfinished business, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the resolution was postponed one day.

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 7, U. S. Navy MM2 Carl E. Keeney, U. S. Navy SN1 Frank Keeney and U. S. Army PFC Carl M. Nicholas Memorial Bridge,

Com. Sub. for H. C. R. 26, Requesting the Division of Highways name a portion of Cannelton Road “In Memory of Fallen Corrections Officers”,

Com. Sub. for H. C. R. 31, U. S. Army Air Corp PFC James W. Brown Memorial Bridge,

Com. Sub. for H. C. R. 56, U. S. Marine Corps Lance Corporal Eddie Dean Starcher Memorial Bridge,

Com. Sub. for H. C. R. 69, U. S. Air Force Senior Airman Luke Christopher Wamsley Memorial Bridge,

Com. Sub. for H. C. R. 74, U. S. Army PFC Roger Lee Carpenter Memorial Bridge,

H. C. R. 89, U. S. Army SGT James Shellace Armentrout Memorial Bridge,

Com. Sub. for H. C. R. 98, Delegate Emily Warden Yeager Memorial Bridge,

Com. Sub. for H. C. R. 101, Claude Markle Hill,

Com. Sub. for H. C. R. 108, U. S. Navy PO3 Heath “Scrappy” Shilling Memorial Road,

Com. Sub. for H. C. R. 109, U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge,

H. C. R. 110, Speaker Clyde M. See, Jr. Exit,

Com. Sub. for H. C. R. 111, U. S. Air Force Major Mary Lafferty Coll, D.O. Memorial Bridge,

And,

H. C. R. 139, U. S. Army TSGT Denver E. Short Memorial Road.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. C. R. 141, Urging the President and Congress of the United States of America take no action to employ military forces of the United States in active duty combat unless the United States Congress has passed an official declaration of war; on unfinished business, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the resolution was postponed one day.

Third Reading

S. B. 51, Specifying forms of grandparent visitation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 631**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 51) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 120, Establishing priorities for expenditures for plugging abandoned gas or oil wells; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 632**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 120) passed.

On motion of Delegate Anderson, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 120 - “A Bill to amend and reenact §22-10-6 of the Code of West Virginia, 1931, as amended, relating to the establishment of priorities for expenditures for plugging abandoned oil and gas wells; requiring that a bond posted for a well shall first be used to plug the well and mitigate environmental issues related to oil and gas development on the land where the well is located, if the bond is forfeited as a result of failure to plug the abandoned well, repair the well that is causing immediate threat to the environment, or which hinders or impedes the development of mineral resources of this state, or the well operator was cited for and then failed to correct an immediate threat to the environment or hinderance or impediment to the development of mineral resources of this state, or the operator failed to reclaim the surface disturbance causing immediate threat to the environment or which hinders or impedes the development of mineral resources of this state.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 130, Relating to procedure for driver’s license suspension and revocation for DUI; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 633**), and there were—yeas 59, nays 41, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barnhart, Boggs, N. Brown, Butler, Byrd, Canestraro, Caputo, Evans, Fast, Fleischauer, Hansen, Hartman, Hicks, Hornbuckle, Hott, Howell, D. Jeffries, D. Kelly, Kessinger, Longstreth, Lovejoy, C. Martin, P. Martin, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Skaff, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 130) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B 130 - “A Bill to amend and reenact §17C-5-2, §17C-5-2a, §17C-5-2b, §17C-5-4, §17C-5-7, and §17C-5-12 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17C-5-7a; to amend and reenact §17C-5A-1, §17C-5A-1a, and §17C-5A-3 of said code; to amend said code by adding thereto a new section, designated §17C-5A-2b; and to amend said code by adding thereto a new section, designated §17C-5C-1a, all relating generally to offenses involving operating a motor vehicle while under the influence of alcohol, controlled substances, or drugs and the administrative process for revocation or suspension of a person’s license to operate a motor vehicle based on such offenses; defining terms; transferring authority for hearing certain matters related to revocations or suspensions of licenses from the Office of Administrative Hearings to the courts; establishing mandatory license revocation or suspension periods for individuals convicted of certain offenses; authorizing alternate revocation or suspension periods conditioned upon participation in Motor Vehicle Alcohol Test and Lock Program for certain offenses; establishing mandatory license revocation or suspension periods for individuals upon second and subsequent convictions for certain offenses; clarifying what constitutes a second or subsequent offense for purposes of criminal penalties and license revocations and suspensions; clarifying that certain offenses involving driving under the influence take place only when the operator is upon a public highway or private road; clarifying the term ‘in this state’ for purposes of enforcement of certain serious traffic crimes; requiring the Commissioner of the Division of Motor Vehicles to revoke a person’s license upon conviction of certain offenses or for refusal to submit to a secondary chemical test in certain circumstances; requiring individuals whose licenses have been revoked or suspended upon conviction of certain offenses to complete the comprehensive safety and treatment program before the license can be reinstated; requiring driver consent to participation in Motor Vehicle Alcohol Test and Lock Program; requiring deferral program for certain first offenses to be

completed within one year; prohibiting a secondary test of blood without consent absent issuance of a search warrant; requiring that a person arrested for driving under the influence be provided with certain verbal and written warnings prior to submitting to a secondary chemical test; requiring an officer to 15 minutes before a refusal to submit to a secondary chemical test is considered final; requiring that, following an individual's refusal to submit to a secondary chemical test, an arresting officer submit a sworn statement containing certain information to Commissioner of the Division of Motor Vehicles and the court; providing for a hearing before the court to contest a documented refusal to submit to a secondary chemical test; providing minimum license revocation periods for refusal to submit to a secondary chemical test; directing the Bureau for Public Health to make reports and recommendations on the levels of drugs and controlled substances to be used as evidence in certain criminal proceedings; limiting the administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2020; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's license on the basis of driving under the influence or refusal to submit to a secondary test absent direction from court; requiring the Commissioner of the Division of Motor Vehicles to provide certain records to the court following a person's arrest; providing a procedure to correct a license revocation or suspension based on mistaken driver identity; providing that a plea of no contest constitutes a conviction; requiring the clerk of the court to transmit a copy of an order related to revoking or suspending a person's license to the Division of Motor Vehicles; directing that a copy of a license revocation or suspension order to be sent to the person whose license is being revoked or suspended by certified mail; providing that revocation for refusal to submit to secondary chemical test run concurrently with other revocation or suspension imposed as a result of an offense that led to the arrest; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program and related reductions in length of revocation for successful completion thereof; requiring the Office of Administrative Hearings to dispose

of all matters pending before it by a certain date; establishing a timeline for jurisdiction of matters currently filed in the Office of Administrative Hearings to transfer to the courts; requiring that matters related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be dismissed; requiring that matters not related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be transferred to a circuit court according to certain procedures; terminating the Office of Administrative Hearings by a certain date; eliminating obsolete language; providing internal effective dates; and making technical corrections.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 180, Relating to Second Chance Driver’s License Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 634**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Dean, Fluharty and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 180) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 180 - “A Bill to amend and reenact §17B-7-5 and §17B-7-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17B-7-11, all relating to the Second Chance Driver’s License Program; providing that a court’s accounting of amounts due for crime victim restitution be separately identified; providing that any moneys for

restitution that are not submitted in the accounting by the court may not be waived by the participant's completion of the program; and providing that amounts of court costs collected under the Second Chance Driver's License Program attributable to crime victim restitution are not subject to the five percent offset for use by the Director of the Division of Justice and Community Services in the administration of the program; and providing a sunset provision."

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 193, Setting forth timeframes for continuing purchases of commodities and services over \$1 million; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 635**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Dean and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 193) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 195, Updating powers of personal representatives of deceased person's estate; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 636**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Graves and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 195) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 213, Relating to administration of trusts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 637**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Graves and Pyles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 213) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 213 - “A Bill to amend and reenact §44D-1-103, §44D-1-105, and §44D-1-108 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-6-603 of said code; to amend and reenact §44D-7-703 of said code; to amend and reenact §44D-8-808 of said code; and to amend said code by adding thereto a new article, designated §44D-8A-801, §44D-8A-802, §44D-8A-803, §44D-8A-804, §44D-8A-805, §44D-8A-806, §44D-8A-807, §44D-8A-808, §44D-8A-809, §44D-8A-810, §44D-8A-811, §44D-8A-812, §44D-8A-813, §44D-8A-814, §44D-8A-815, §44D-8A-816, and §44D-8A-817, all relating to the administration of trusts; providing definitions; establishing default and mandatory rules; establishing when terms of a trust designating the principal place of administration are valid; establishing grantor’s powers and powers of withdrawal; enacting the West Virginia Uniform Directed Trust Act; specifying applicability; setting forth exclusions; establishing powers, duties and liabilities of a trust director; providing limitations on trust director power;

establishing duties and liabilities of a directed trustee; establishing duty of trustee to provide certain information to a trust director or trustee; providing that a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercised of power; providing limitations on actions against a trust director; establishing defenses in actions against a trust director; establishing person jurisdiction of West Virginia courts over a trust director; providing that certain statutory rules apply to a trust director; and providing effective date.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 638**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Porterfield.

Absent and Not Voting: Dean, Graves and Pyles.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 213) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 275, Creating Intermediate Court of Appeals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 639**), and there were—yeas 44, nays 56, absent and not voting none, with the yeas being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Cowles, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Householder, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Linville, Mandt, Maynard, Nelson, Pack, Porterfield, Queen, Rowan, Shott,

Steele, Storch, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 275) rejected.

Pursuant to House Rule 58, Delegate Miley, having voted on the prevailing side when the House of Delegates rejected Com. Sub. for S. B. 275, moved that the vote be reconsidered.

Delegate Foster moved to table the motion to reconsider the vote.

On this motion, the yeas and nays were taken (**Roll No. 640**), and there were—yeas 43, nays 57, absent and not voting none, with the yeas being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Linville, Mandt, Maynard, Nelson, Pack, Phillips, Porterfield, Queen, Rowan, Shott, Steele, Storch, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting not having voted in the affirmative, the motion to table the motion to reconsider the vote on Com. Sub. for S. B. 275 did not prevail.

On the motion to reconsider the vote on Com. Sub. for S. B. 275, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 641**), and there were—yeas 42, nays 58, absent and not voting none, with the yeas being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Howell, D. Jeffries, J. Jeffries,

Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Linville, Mandt, Maynard, Nelson, Pack, Porterfield, Queen, Rowan, Shott, Steele, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting not having voted in the affirmative, the motion to reconsider the vote on the passage of the bill did not prevail.

At 1:05 p.m., the House of Delegates recessed until 2:00 p.m.

* * * * *

Afternoon Session

* * * * *

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 291, Requiring PEIA and health insurance providers provide mental health parity; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 642**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bartlett, Bibby, Butler, Cadle, Fast, Foster, Graves, Hardy, Kump, P. Martin, McGeehan, Porterfield, Wilson and Hanshaw (Mr. Speaker).

Absent and Not Voting: Angelucci and J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 291) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 291 - “A Bill to repeal §33-15-4a of the Code of West Virginia, 1931, as amended; to repeal §33-16-3a of said code; to amend and reenact §5-16-7 of said code; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend and reenact §33-24-4 of said code; to amend said code by adding thereto a new section, designated §33-24-7u; to amend and reenact §33-25-6 of said code; to amend said code by adding thereto a new section, designated §33-25-8r; and to amend said code by adding thereto a new section, designated §33-25A-8u, all relating to requiring the Public Employees Insurance Agency and other health insurance providers to provide mental health parity between behavioral health, mental health, substance use disorders, and medical and surgical procedures; providing definitions; providing for mandatory reporting; providing for rulemaking; and setting forth an effective date.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 322, Relating to prequalifications for state contract vendors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 643**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 322) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 472, Providing alternative sentencing program for work release; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 644**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 472) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 645**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 472) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 517, Creating State Parks and Recreation Endowment Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 646**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Nelson and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 517) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 647**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 517) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 648**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 649**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Howell.

Absent and Not Voting: Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the bill (Com. Sub. for S. B. 522) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 650**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Fleischauer, Fluharty, Jennings, Paynter and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 547) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 547 - “A Bill to amend and reenact §21-3E-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §21A-6-3 of said Code; all relating to unemployment compensation; revising provisions relating to employer testing, notice, termination, and forfeiture of unemployment compensation benefits; and providing that violation of an employer’s drug free workplace program, or, violation of an employer’s alcohol free workplace program, can still be grounds for a finding of gross misconduct.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 551, Relating to Water and Wastewater Investment and Infrastructure Improvement Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 651**), and there were—yeas 89, nays 11, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Cadle, Dean, Fast, C. Martin, P. Martin, McGeehan, Paynter, Toney and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 551) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 551 - “A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §24-2-4g, all relating generally to the Water and Wastewater Investment and Infrastructure Improvement Act to encourage investment in water and wastewater utilities; describing and expanding permissible uses for proceeds of a sale or lease of a municipal utility; making legislative findings; providing for use of negotiated sales price in certain filings; providing for rate based addition using negotiated sales price under certain circumstances; providing for additional approvals under certain circumstances; specifying preliminary agreements and commitments not requiring prior approval; authorizing the Public Service Commission to combine water and wastewater revenue requirements or allocate a portion of wastewater revenue requirement to water customers under certain circumstances; and setting forth defined terms.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 579, Changing and adding fees to wireless enhanced 911 fee; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 652**), and there were—yeas 73, nays 27, absent and not voting none, with the nays being as follows:

Nays: Bartlett, Bates, Bibby, N. Brown, Butler, Canestraro, Dean, Diserio, Ellington, Evans, Fluharty, Hanna, Hardy, Hicks, Higginbotham, Howell, J. Jeffries, C. Martin, P. Martin, Maynard, McGeehan, Miley, Miller, Paynter, Steele, Tomblin and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 579) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 597, Relating to judicial branch members' salaries and pensions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 653**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Bates, Butler, Cadle, Hamrick, Hill, Howell, J. Jeffries, McGeehan and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 597 - "A Bill to amend and reenact §50-1-3 of the Code of West Virginia, 1931, as amended; to amend and

reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; and to amend and reenact §51-2A-6 of said code, all relating to providing a ten percent salary increase to certain judicial officers.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 654**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Butler, Cadle, J. Jeffries, C. Martin, P. Martin, McGeehan and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 610, Removing resident manager requirement for Alcohol Beverage Control Administration; on third reading, coming up in regular order, was read a third time.

Delegate C. Martin requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 655**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Bartlett, Butler, Fast, D. Jeffries, Jennings, Mandt, C. Martin, P. Martin, Porterfield and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 610) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 656**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Bartlett, Butler, Fast, D. Jeffries, Jennings, Mandt and Porterfield.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 610) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 615, Declaring certain claims against state as moral obligations of state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 657**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Graves.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 615) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 658**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Graves and Nelson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 615) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 660, Regulating electric bicycles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 659**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Fast, J. Jeffries and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 660) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 660**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Kump, McGeehan and Paynter.

Absent and Not Voting: Hartman, Householder and Mandt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 664) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 670, Amending service of process on nonresident persons or corporate entities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 661**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cadle.

Absent and Not Voting: Higginbotham.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 670) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 690, Permitting street-legal special purpose vehicles on highways; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 662**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Higginbotham.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 690) passed.

On motion of Delegate Howell, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 690 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-13-1, relating to the operation of street-legal special purpose vehicles; permitting the operation of street-legal

special purpose vehicles on highways; providing for registration of street-legal special purpose vehicles; establishing licensing and equipment requirements for street-legal special purpose vehicles; defining terms; requiring rulemaking; clarifying that low speed vehicles are not special purpose vehicles or street-legal special purpose vehicles; and allowing low speed vehicles to cross state routes at traffic lights when the state route does not have a posted speed limit greater than 40 miles per hour.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 711, Relating to juvenile jurisdiction of circuit courts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 663**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 711) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization; on third reading, coming up in regular order, was read a third time.

Delegate Ellington requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 664**), and there were—yeas 97, nays 2, absent

and not voting 1, with the nays and absent and not voting being as follows:

Nays: Jennings and Porterfield.

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 716) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 716 - “A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to requiring Department of Health and Human Resources to make payment for tubal ligation without requiring at least 30 days between the date of informed consent and date of the tubal ligation procedure; and removing obsolete language.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 665**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Jennings and Porterfield.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 716) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 717, Relating generally to adult protective services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 666**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 717) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 719, Imposing health care-related provider tax on certain health care organizations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 667**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Butler, J. Jeffries, Kessinger, McGeehan, Paynter, Waxman and Wilson.

Absent and Not Voting: Cowles, Foster, Little and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 719) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 668**), and there were—yeas 91, nays 4, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Waxman.

Absent and Not Voting: Foster, J. Kelly, Little, Wilson and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 719) takes effect July 1, 2020.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 738, Creating Flatwater Trail Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 669**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Foster, J. Kelly, Wilson and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 738) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 740, Clarifying authorized users of Ron Yost Personal Assistance Services Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 670**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Hardy and Kessinger.

Absent and Not Voting: Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 740) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 671**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Kump.

Absent and Not Voting: Angelucci, Dean and J. Jeffries.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 747) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 672**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Dean and J. Jeffries.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 787) passed.

Com. Sub. for S. B. 797, Authorizing governing boards of public and private hospitals employ hospital police officers; on third reading, coming up in regular order, was read a third time.

Delegate Kump moved the previous question, which demand was sustained.

On this question, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 673**), and there were—yeas 45, nays 54, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Capito, Cooper, Criss, Ellington, Fast, Foster, Graves, Hamrick, Hanna, Higginbotham, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Little, Mandt, C. Martin, P. Martin, Maynard, Nelson, Paynter, Queen, Rohrbach, Rowan, Shott, Steele, Sypolt, Toney, Waxman, Westfall, Wilson and Hanshaw (Mr. Speaker).

Absent and Not Voting: Porterfield.

So, a majority of the members present and voting not having voted in the affirmative, the motion for the previous question was rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 674**), and there were—yeas 76, nays 23, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Canestraro, Caputo, Cowles, Diserio, Fleischauer, Fluharty, Hornbuckle, Kump, Lavender-Bowe, Linville, C. Martin, McGeehan, Miley, Pack, Paynter, Phillips, Sponaugle, Swartzmiller and Wilson.

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 797) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 797 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-19; to amend and reenact §17C-1-6 of said code; and to amend and reenact §30-29-1, §30-29-5, and §30-29-8 of said code, all relating generally to law-enforcement officers; the authorization by governing boards of public and private hospitals to appoint and employ hospital police officers; providing for the qualifications, training, authority, compensation, and removal of hospital police officers; providing for training and examinations of law enforcement officers; providing for the assistance of local law-enforcement agencies upon request; and providing limitations on liability of hospital police officers.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 843, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 675**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 843) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 676**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 843) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 844, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 677**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 844) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 678**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 844) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 845, Supplemental appropriation from Treasury to DHHR, Division of Human Services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 679**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs, Mandt and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 845) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were (**Roll No. 680**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs, Mandt and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 845) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 852, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 681**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 852) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were (**Roll No. 682**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 852) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 853, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 683**), and there were—yeas 97, nays 2, absent

and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 853) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were (**Roll No. 684**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: Linville and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 853) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

In the absence of objection, the House returned to consideration of **Com. Sub. for S. B. 787**.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 787 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-53-1, relating to providing benefits to pharmacists for pharmacist care rendered within the pharmacist’s scope of practice if benefits would be provided for such services performed by other health care providers; providing for reimbursement

pursuant to negotiations; excepting certain health plans, policies, contracts or agreements from requirements; and providing for effective date.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

Com. Sub. for S. B. 253, Providing for fair pay and maximized employment of disabled persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 752, Relating generally to medical cannabis; on second reading, coming up in regular order, was read a second time; on second reading, coming up in regular order, was read a second time.

Delegate Summers asked unanimous consent that the bill be advanced to third reading with the right to amend, which consent was not granted, objection being heard.

Delegate Summers then so moved.

Subsequently, in the absence of objection, the bill was advanced to third reading with amendments pending and the general right to amend, and the rule was suspended to permit the consideration of amendments on that reading.

S. B. 854, Expiring funds to Division of Culture and History from Auditor’s Office, Purchasing Card Administration Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 855, Expiring funds to State Rail Authority, WV Commuter Rail Access Fund from Auditor’s Office, Purchasing Card Administration Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 856, Expiring funds from WV Development Office, Synthetic Fuel, Producing County Fund to Market and Communications Operating Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Hanshaw (Mr. Speaker), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 12, Feasibility study of extracting rare earth elements from coal ash,

H. C. R. 85, Requesting Joint Committee on Government and Finance to study ways the state can leverage technology,

H. C. R. 87, Recognizing the last day of February every year as Rare Disease Day,

H. C. R. 94, Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side,

H. C. R. 96, Requesting the Joint Committee on Government and Finance study the hiring exemptions of the West Virginia State Tax Department and the West Virginia Division of Highways—Department of Transportation,

H. C. R. 112, Requesting the Joint Committee on Government and Finance to conduct a study the impact on counties that pay for the cost of transporting persons requiring mental health treatment and/or substance abuse treatment to mental health facilities or state hospitals outside of that county,

H. C. R. 113, Requesting the Joint Committee on Government and Finance study the licensing categories and regulation of contractors by the West Virginia Contractors Licensing Board,

H. C. R. 114, Requesting the Joint Committee on Government and Finance to conduct a study of licensure, certification and registration forms of occupational and professional regulation,

H. C. R. 115, Requesting the Joint Committee on Government and Finance to conduct a study of the feasibility of a single building to house all occupational and professional regulatory boards,

H. C. R. 116, Requesting the Joint Committee on Government and Finance to conduct a study duplicative and unnecessary professional and occupational regulations,

H. C. R. 117, Requesting the Joint Committee on Government and Finance to conduct a study of state procurement policies to identify best practices, including exploring exceptions to the statewide contract and purchasing policies generally,

H. C. R. 118, Requesting the Joint Committee on Government and Finance to conduct a study of state logging regulations regarding trucking and related insurance requirements compared to other logging intensive states,

H. C. R. 126, Requesting the Joint Committee on Government and Finance study the Division of Personnel regarding the policies and practices,

H. C. R. 128, Requesting the Joint Committee on Government and Finance study how state agencies can better manage the amount of state taxpayer dollars spend on utilities,

H. C. R. 129, Requesting the Joint Committee on Government and Finance study the professional and occupational licensing policies,

H. C. R. 130, Requesting the Joint Committee on Government and Finance to study the adoption and enforcement of the municipal building codes and property maintenance codes,

H. C. R. 131, Requesting a study to research the obstacles preventing private school students from attending vocational school in West Virginia,

H. C. R. 132, Requesting the Joint Committee on Government and Finance to conduct a study to consider the Icelandic Model for substance use prevention,

H. C. R. 133, Requesting a study of involuntary commitment practices for persons suffering from severe psychiatric illnesses,

H. C. R. 134, Requesting a study to determine the usage and whereabouts of federal money allocated to the State of West Virginia for the purpose of prevention and treatment efforts regarding the state opioid crisis,

H. C. R. 135, Requesting a study of prescription drug transparency laws, including reports on data submitted by health insurers, manufacturers, and pharmacy benefit managers,

H. C. R. 136, Requesting a study to present a plan for the combination of the Board of Medicine and the Board of Osteopathic Medicine,

H. C. R. 137, Requesting a study of appropriate identification and medical and rehabilitative interventions for persons who sustain a traumatic brain injury,

And,

H. C. R. 138, Requesting a study of sexual violence prevention and intervention services,

And reports the same back with the recommendation that they each be adopted.

Delegate Hanshaw (Mr. Speaker), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

S. C. R. 10, Requesting study of current WV laws relating to anti-bullying measures in schools,

S. C. R. 25, Requesting study on impact of future electromagnetic pulse catastrophe,

And,

S. C. R. 46, Requesting DEP and DHHR propose public source-water supply study plan,

And reports the same back with the recommendation that they each be adopted.

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. R. 16, Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia,

And reports the same back with the recommendation that it be adopted.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. C. R. 4, Urging Congress call convention to propose amendment on congressional term limits,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended. *[NOTE: This was a new report to note that the resolution was reported with amendment.]*

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and again passed, as amended, in an effort to meet the objections of the Governor, of

Enr. Com. Sub. for H. B. 2086, Uniform Real Property Electronic Recording Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4003, Relating to telehealth insurance requirements.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7b. Coverage for telehealth services.

(a) The following terms are defined:

(1) ‘Distant site’ means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.

(2) ‘Health care practitioner’ means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(3) ‘Originating site’ means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care

practitioner's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(4) 'Remote patient monitoring services' means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(5) 'Telehealth services' means the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) After July 1, 2020, the plan shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) After July 1, 2020, the plan may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) The plan shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company.

(e) The plan may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment,

coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge the plan a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-25. Telehealth practice.

(a) For the purposes of this section:

‘Health care practitioner’ means a person licensed under §30-1-1 *et seq.* who provides health care services.

‘Telehealth services’ means the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) Unless already provided for by statute or legislative rule, a health care board, referred to in this chapter, shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:

(1) The practice of the health care service occurs where the patient is located at the time the telehealth technologies are used;

(2) The health care practitioner who practices telehealth must be licensed as provided in this chapter;

(3) When the health care practitioner patient relationship is established;

(4) The standard of care;

(5) A prohibition of prescribing schedule II drugs, unless authorized by another section; and

(6) Implement the provisions of this section while ensuring competency, protecting the citizens of this state from harm, and addressing issues specific to each profession.

CHAPTER 33. INSURANCE.

ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-53-3. Coverage for telehealth services.

(a) The following terms are defined:

(1) ‘Distant site’ means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.

(2) ‘Health care practitioner’ means a person licensed under §30-1-1 *et seq.* of this code who provides health care services.

(3) ‘Originating site’ means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(4) ‘Remote patient monitoring services’ means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(5) ‘Telehealth services’ means the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company.

(e) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime

dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4003 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7b, to amend said code by adding thereto a new section, designated §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-3, all relating to telehealth requirements; providing rulemaking authority; requiring boards to regulate telehealth practice; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability.”

With the further amendment, sponsored by Delegate Summers, being as follows:

On page four, by striking out the section heading and inserting a new section heading to read as follows:

“§33-53-1. Coverage of telehealth services.”

And,

The further title amendment sponsored by Delegate Summers amending the title of the bill to read as follows:

Com. Sub. for H. B. 4003 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7b, to amend said code by adding thereto a new section, designated §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-1, all relating to telehealth requirements; providing rulemaking authority; requiring boards to regulate telehealth practice; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 685**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4003) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4102, Relating to opioid antagonists.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section three, by striking out the section caption and inserting in lieu thereof the following:

“§16-46-3. Licensed health care providers may prescribe opioid antagonists to initial responders and certain individuals; required educational materials; limited liability.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 686**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4102) passed.

Delegate Kessinger moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 687**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4102) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4108, Relating generally to certificates of need for health care services.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section eleven, line five, by striking out the words “the approval of”.

And,

On page one, section eleven, by striking out the section caption and inserting in lieu thereof the following:

“§16-2D-11. Exemptions from Certificate of Need which require the submission of information to the authority.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 688**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bibby, N. Brown, Higginbotham and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4108) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4198, Permitting a person to obtain a 12-month supply of contraceptive drugs.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE, AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES
INSURANCE ACT.**

**§5-16-28. Incorporation of the coverage for 12-month refill for
contraceptive drugs.**

The provision requiring coverage for 12-month refill for
contraceptive drugs codified at §33-53-1 of this code is made
applicable to the provisions of this article.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

**§33-15-4u. Incorporation of the coverage for 12-month refill
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for
contraceptive drugs codified at §33-53-1 of this code is made
applicable to the provisions of this article.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS
INSURANCE.**

**§33-16-3ff. Incorporation of the coverage for 12-month refill
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,
MEDICAL SERVICE CORPORATIONS, DENTAL
SERVICE CORPORATIONS, AND HEALTH SERVICE
CORPORATIONS.**

**§33-24-7u. Incorporation of the coverage for 12-month refill
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

ARTICLE 25. HEALTH CARE CORPORATIONS.

**§33-25-8r. Incorporation of the coverage for 12-month refill for
contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

**ARTICLE 25A. HEALTH MAINTENANCE
ORGANIZATION ACT.**

**§33-25A-8u. Incorporation of the coverage for 12-month refill
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

**ARTICLE 53. REQUIRED COVERAGE FOR HEALTH
INSURANCE.**

§33-53-1. Coverage and dispensing birth control.

(a) Notwithstanding the a prohibition or limitation contained within the provisions of §33-1-1 *et seq.* and §5-16-1 of this code an

insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code which amends, renews, or delivers a health policy on or after January 1, 2021, that provides coverage for contraceptive drugs, shall provide coverage for a 12-month refill of contraceptive drugs obtained at one time by the insured after the insured has completed the initial supply of the drugs, unless the insured requests a smaller supply or the prescribing provider instructs that the insured must receive a smaller supply. A health benefit plan that provides coverage shall allow the insured to receive the contraceptive drugs on-site at the provider's office, if available, and dispensing practices must follow all clinical guidelines for appropriate prescribing and dispensing to ensure the health of the patient while maximizing access to effective contraceptive drugs.

(b) A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, may not impose utilization controls or other forms of medical management limiting the supply of contraceptive drugs that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply.

(c) This section does not exclude coverage for contraceptive drugs as prescribed by a provider for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

(d) Nothing in this section requires a health benefit plan to cover contraceptive drugs provided by a provider, pharmacy, or at a location authorized to dispense drugs or supplies, that does not participate in the health benefit plan's provider or pharmacy network, as applicable, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.

(e) For purposes of this section, the term "contraceptive drugs" means all drugs approved by the United States Food and Drug

Administration that are used to prevent pregnancy, including, but not limited to, hormonal drugs administered orally, transdermally, and intravaginally.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. H. 4198 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-28; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated 33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto by adding thereto a new section, designated, §33-25A-8u; and to amend said code by adding thereto a new section, designated §33-53-2, all relating to permitting a person to obtain a 12-month supply of contraceptive drugs; and incorporating these provisions into the West Virginia Public Employees Insurance Act and sections of insurance code.”

With the further title amendment, sponsored by Delegate Summers, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4198 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-28; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated 33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto a new section, designated §33-25A-8u; and to amend said code by adding thereto a new section, designated §33-53-1, all relating to permitting a person to obtain a 12-month supply of contraceptive drugs; incorporating these provisions into the West Virginia Public Employees Insurance Act; and incorporating these provisions into the sections of insurance code.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 689**), and there were—yeas 88, nays 8, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Butler, Fast, Jennings, C. Martin, P. Martin and Porterfield.

Absent and Not Voting: Bibby, N. Brown, Higginbotham and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4198) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4252, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Accountancy.

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-9-5 of this code,

modified by the Board of Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 8, 2019, relating to the Board of Accountancy (board rules and rules of professional conduct, 1 CSR 01), is authorized.

§64-9-2. Board of Acupuncture.

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Acupuncture (fees for the Board of Acupuncture, 32 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2019, relating to the Board of Acupuncture (auricular detoxification therapy certificate, 32 CSR 14), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Acupuncture (application for waiver of initial licensing fees for certain individuals, 32 CSR 15), is authorized.

(d) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the Board of Acupuncture (consideration of prior criminal convictions in initial licensure determinations, 32 CSR 16), is authorized.

§64-9-3. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-37-3 of this code, relating to the Commissioner of Agriculture (Fresh Food Act, 61 CSR 10), is authorized.

(c) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-2C-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Commissioner of Agriculture (auctioneers, 61 CSR 11B), is authorized.

(d) The legislative rule filed in the State Register on July 11, 2019, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication, 61 CSR 13A), is authorized.

(e) The legislative rule filed in the State Register on January 7, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (grade “A” pasteurized milk, 61 CSR 15), is authorized.

(f) The legislative rule filed in the State Register on January 6, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (West Virginia manufacture-grade milk, 61 CSR 19), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-1-3b of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the

Commissioner of Agriculture (employment reference and inquiries and background checks, 61 CSR 20), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-20C-3 of this code, relating to the Commissioner of Agriculture (West Virginia Spay-Neuter Assistance Program, 61 CSR 24), is authorized with the following amendments:

On page two, subsection 3.10, after the word “rule” by inserting the following words “to perform spay neuter services for eligible owners and caretakers”;

On page two, after subdivision 3.10.b., by inserting a new subsection, designated 3.11, to read as follows:

“3.11. “Low-income restricted program” means a spay neuter program that provides spay neuter services to owners or caretakers currently receiving assistance from at least one of the state and federal public assistance programs:

3.11.a. The Supplemental Nutrition Assistance Program (SNAP);

3.11.b. Medicaid;

3.11.c. Supplemental Security Income (SSI);

3.11.d. Thee West Virginia Low Income Energy Assistance Program (LIEAP);

3.11.e. Social Security Disability;

3.11.f. Temporary Assistance for Needy Families (TANF);

3.11.g. Aid to Families with Dependent Children (AFCD);

3.11.h. Children’s Health Insurance Program (CHIP); or

3.11.i. Low Income Veterans Assistance under 38 USC 2044.”;
and re-numbering the remaining subsections;

On page four, subsection 6.1, after the word “delivery.” by adding the following sentence: “The Advisory Committee shall give preference to applicants that intend to operate a low-income restricted program.”

On page four, subsection 6.2, after the word “application.” by adding the following sentence: “The Commission shall give preference to applicants that intend to operate a low-income restricted program.”

And,

On page five, by striking out all of §61-24-7 and renumbering the remaining section.

(i) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2020, relating to the Commissioner of Agriculture (industrial hemp, 61 CSR 29), is authorized with the following amendment:

On page six, section 5.6. by striking everything after the words “the commissioner may” and inserting in lieu thereof the following:

“upon request, and if permitted by the United States Department of Agriculture, permit a licensee to submit a Corrective Action Plan and request a second sampling and test of the crop following implementation of the Corrective Action Plan.”

(j) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2020, relating to the Commissioner of Agriculture (hemp products, 61 CSR 30), is authorized with the following amendments:

On page four, section four, subdivision 4.6.a, after the words “changes in”, by adding the words “the chemical composition or formula of”;

On page five, section four, subdivision 4.6.c, after the words “changes to”, by adding the words “health-related”;

On page five, section four after subdivision 4.6.c, by renumbering the remaining subsections;

On page five, section four, subsection 4.7, after the word “retailer”, by adding the words “or distributor”;

On page five, section five, after subdivision 5.7, by inserting a new subdivision, designated subdivision 5.8 to read as follows:

5.8. A distributor of hemp products that does not itself engage in retail sales is not required to register under this section.

On page six, section seven, subsection 7.2, after the words “produced for”, by adding the word “topical”;

On page six, section seven, subsection 7.2, by striking the words “Cosmetic Product” and inserting in lieu thereof the words “Cosmetic Products”;

On page six, section seven, subsection 7.3, by striking the word “medical” and inserting in lieu thereof the words “disease or drug”;

On page six, section seven, by striking subsection 7.7 and renumbering the remaining subsections;

(k) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §19-2H-12 of this code, relating to the Commissioner of Agriculture (captive cervid farming, 61 CSR 34), is authorized with the following amendment:

On page nine, section eleven, by striking out all of section 11.15 and inserting in lieu thereof the following:

“11.15. The owner shall have a West Virginia licensed and accredited veterinarian or designee perform an annual visual

examination of each animal and take an inventory to reconcile inventory records submitted with the license application or renewal. When the veterinarian performs the annual visual examination of each animal and takes an inventory, the West Virginia licensed and accredited veterinarian shall submit the veterinarian report to the Department within sixty (60) days of receipt and the inventory within thirty (30) days of completion.”

(l) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-35-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Commissioner of Agriculture (farmers markets, 61 CSR 38), is authorized with the following amendment:

On page seven, section seven, subsection 7.4, after the word “products”, by inserting the words “excluding whole uncut produce and”.

(m) The legislative rule filed in the State Register on January 6, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (West Virginia exempted dairy farms and milk and milk products processing rules, 61 CSR 40), is authorized.

§64-9-4. Board of Architects.

(a) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-12-1 of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 16, 2019, authorized under the authority of §30-12-3 of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of

Architects (fees for registration of architects, 2 CSR 03), is authorized.

§64-9-5. Board of Chiropractic Examiners.

(a) The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2019, relating to the Board of Chiropractic Examiners (application for waiver of initial licensing fees for certain individuals, 4 CSR 07), is authorized.

(b) The legislative rule filed in the State Register on September 10, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Chiropractic Examiners (consideration of prior criminal convictions in initial licensure determinations, 4 CSR 08), is authorized.

§64-9-6. Board of Examiners in Counseling.

The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 9, 2019, relating to the Board of Examiners in Counseling (application for waiver of initial licensing fees for certain individuals, 27 CSR 13), is authorized.

§64-9-7. West Virginia Board of Dentistry.

(a) The legislative rule filed in the State Register on September 20, 2019, authorized under the authority of §30-4-6 of this code, relating to the West Virginia Board of Dentistry (rule for the West Virginia Board of Dental Examiners, 5 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §30-4-6 of this code,

modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the West Virginia Board of Dentistry (dental advertising, 5 CSR 08), is authorized.

§64-9-8. Board of Licensed Dietitians.

(a) The legislative rule filed in the State Register on August 30, 2019, authorized under the authority of §30-35-4 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Board of Licensed Dietitians (licensure and renewal requirements, 31 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Board of Licensed Dietitians (application for waiver of initial licensing fees for certain individuals, 31 CSR 06), is authorized.

§64-9-9. Election Commission.

(a) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §3-8-8 of this code, modified by the Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Election Commission (corporate and membership organization political activity, 146 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §3-1A-5 of this code, modified by the Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Election

Commission (regulation of campaign finance, 146 CSR 03), is authorized.

§64-9-10. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on July 23, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Funeral Service Examiners (application for waiver of initial licensing fees for certain individuals, 6 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Board of Funeral Service Examiners (consideration of prior criminal convictions in initial licensure determinations, 6 CSR 06), is authorized.

§64-9-11. Board of Hearing Aid Dealers.

(a) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2019, relating to the Board of Hearing Aid Dealers (application for waiver of initial licensing fees for certain individuals, 8 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Board of Hearing Aid Dealers (consideration of prior criminal

convictions in initial licensure determinations, 8 CSR 05), is authorized.

§64-9-12. Board of Landscape Architects.

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 21, 2019, relating to the Board of Landscape Architects (consideration of prior criminal convictions in initial licensure determinations, 9 CSR 05), is authorized.

§64-9-13. Massage Therapy Licensure Board.

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Massage Therapy Licensure Board (application for waiver of initial licensing fees for certain individuals, 194 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-1-24 of this code, modified by the Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Massage Therapy Licensure Board (consideration of prior criminal convictions in initial licensure determinations, 194 CSR 06), is authorized.

§64-9-14. Medical Imaging and Radiation Therapy Technology Board of Examiners.

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-23-7 of this code, modified by the Medical Imaging and Radiation Therapy Technology Board of Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the

State Register on October 31, 2019, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, 18 CSR 01), is authorized.

§64-9-15. Board of Medicine.

(a) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-3E-3 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2019, relating to the Board of Medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 01B), is authorized.

(b) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2019, relating to the Board of Medicine (waiver of initial licensing fees for certain initial licensure applicants, 11 CSR 13), is authorized.

§64-9-16. Nursing Home Administrators Licensing Board.

The legislative rule filed in the State Register on November 26, 2019, authorized under the authority of §30-25-6 of this code, modified by the Nursing Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 27, 2019, relating to the Nursing Home Administrators Licensing Board (nursing home administrators, 21 CSR 01), is authorized.

§64-9-17. Board of Occupational Therapy.

(a) The legislative rule filed in the State Register on July 3, 2019, authorized under the authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (fees for services rendered by the Board, 13 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 3, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Occupational Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2019, relating to the Board of Occupational Therapy (request for waiver of initial licensing fees for certain individuals, 13 CSR 07), is authorized.

(c) The legislative rule filed in the State Register on December 2, 2019, authorized under the authority of §30-1-24 of this code, relating to the Board of Occupational Therapy (consideration of prior criminal convictions in initial licensure determinations, 13 CSR 08), is authorized.

§64-9-18. Board of Optometry.

The legislative rule filed in the State Register on October 1, 2019, authorized under the authority of §30-8-6 of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 26, 2019, relating to the Board of Optometry (rules for the West Virginia Board of Optometry, 14 CSR 01), is authorized.

§64-9-19. Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on July 31, 2019, authorized under the authority of §30-3E-3 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the

Board of Osteopathic Medicine (waiver of initial licensing fees for certain initial licensure applicants, 24 CSR 08), is authorized.

§64-9-20. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Pharmacy (record keeping and automated data processing systems, 15 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (Board of Pharmacy rules for registration of pharmacy technicians, 15 CSR 07), is authorized with the following amendments:

On page five, section four, by striking out subdivision 4.3.c and inserting the following:

“4.3.c. has not been convicted of a crime bearing a rational nexus to the practice duties of a pharmacy technician. For other convictions not bearing a rational nexus to the practice of pharmacy, the Board shall permit the applicant to apply for initial licensure if:”

And,

On page ten, section six, by striking out subsection 6.7 and 6.8 and inserting the following:

“6.7. has not been convicted of a crime bearing a rational nexus to the practice duties of a pharmacy technician. For other convictions not bearing a rational nexus to the practice of pharmacy, the Board shall permit the applicant to apply for initial licensure if:

6.7.a. a period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

6.7.b. the individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

6.7.c. the conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the individual board.”

And,

By renumbering the remaining subsections.

(d) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, relating to the Board of Pharmacy (Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Pharmacy (Board of Pharmacy rules for centralized prescription processing, 15 CSR 14), is authorized.

(f) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (regulations governing pharmacy permits, 15 CSR 15), is authorized.

(g) The legislative rule filed in the State Register on October 10, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Board of Pharmacy (regulations governing pharmacists, 15 CSR 16), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (application for waiver of initial licensing fees for certain individuals, 15 CSR 18), is authorized.

§64-9-21. Board of Physical Therapy.

(a) The legislative rule filed in the State Register on September 30, 2019, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (general provisions for physical therapist and physical therapist assistants, 16 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on September 30, 2019, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist assistant, 16 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on September 23, 2019, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (general provisions for athletic trainers, 16 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on September 23, 2019, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (fees for athletic trainers, 16 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 18, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (application for waiver of initial licensing fees for certain individuals, 16 CSR 09), is authorized.

§64-9-22. Board of Registration for Professional Engineers.

The legislative rule filed in the State Register on September 20, 2019, authorized under the authority of §30-13-9 of this code, modified by the Board of Registration for Professional Engineers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Registration for Professional Engineers (examination, licensure and practice of professional engineers, 7 CSR 01), is authorized.

§64-9-23. Board of Professional Surveyors.

The legislative rule filed in the State Register on September 17, 2019, authorized under the authority of §30-13A-6 of this code, modified by the Board of Professional Surveyors to meet the objections of the Legislative Rule-Making Review Committee and

refiled in the State Register on December 19, 2019, relating to the Board of Professional Surveyors (examination and licensing of professional surveyors in West Virginia, 23 CSR 01), is authorized.

§64-9-24. Board of Psychologists.

The legislative rule filed in the State Register on October 11, 2019, authorized under the authority of §30-1-23 and §30-1-24 of this code, modified by the Board of Psychologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 8, 2020, relating to the Board of Psychologists (consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals, 17 CSR 07), is authorized.

§64-9-25. Real Estate Appraiser Licensing and Certification Board.

The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-38-9 of this code, modified by the Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2019, relating to the Real Estate Appraiser Licensing and Certification Board (requirements for licensure and certification, 190 CSR 02), is authorized.

§64-9-26. Real Estate Commission.

(a) The legislative rule filed in the State Register on July 2, 2019, authorized under the authority of §30-1-23 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2019, relating to the Real Estate Commission (application for waiver of initial licensing fees for certain individuals, 174 CSR 06), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Real Estate Commission to meet the objections of

the Legislative Rule-Making Review Committee and refiled in the State Register on December 3, 2019, relating to the Real Estate Commission (consideration of prior criminal convictions in initial license eligibility determination, 174 CSR 07), is authorized.

§64-9-27. Board of Examiners for Registered Professional Nurses.

(a) The legislative rule filed in the State Register on October 11, 2019, authorized under the authority of §30-7-4 of this code, relating to the Board of Examiners for Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on August 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2019, relating to the Board of Examiners for Registered Professional Nurses (request for waiver of initial licensing fees for certain individuals, 19 CSR 15), is authorized.

§64-9-28. West Virginia Board of Respiratory Care.

(a) The legislative rule filed in the State Register on June 27, 2019, authorized under the authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the West Virginia Board of Respiratory Care (establishment of fees, 30 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on June 27, 2019, authorized under the authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the West Virginia Board of Respiratory Care (student temporary permit, 30 CSR 09), is authorized.

(c) The legislative rule filed in the State Register on December 10, 2019, authorized under the authority of §30-1-24 of this code, relating to the Board of Respiratory Care (consideration of prior criminal convictions in initial licensure determinations, 30 CSR 10), is authorized.

§64-9-29. Board of Sanitarians.

The legislative rule filed in the State Register on November 1, 2019, authorized under the authority of §30-17-6 of this code, modified by the Board of Sanitarians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 7, 2020, relating to the Board of Sanitarians (waiver of initial application fees and criteria for initial licensure, 20 CSR 05), is authorized.

§64-9-30. Board of Social Work.

(a) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-30-6 of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 1, 2019, relating to the Board of Social Work (qualifications for the profession of social work, 25 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §30-30-6 of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Social Work (fee schedule, 25 CSR 03), is authorized.

§64-9-31. Board of Speech-Language Pathology and Audiology.

(a) The legislative rule filed in the State Register on June 28, 2019, authorized under the authority of §30-32-7 of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November

4, 2019, relating to the Board of Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 01), is authorized with the following amendments:

On page seven, subdivision 10.8.1.a., following the word “for”, by inserting the words, “active duty”.

And,

On page seven, subdivision 10.8.2.a., following the word “for”, by inserting the words, “active duty”.

(b) The legislative rule filed in the State Register on September 17, 2019, authorized under the authority of §30-32-7 of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2019, relating to the Board of Speech-Language Pathology and Audiology (disciplinary and complaint procedures for speech-language pathology and audiology, 29 CSR 04), is authorized.

§64-9-32. State Auditor.

The legislative rule filed in the State Register on July 8, 2019, authorized under the authority of §6-9-2a of this code, relating to the State Auditor (local government purchasing card program, 155 CSR 06), is authorized.

§64-9-33. State Conservation Committee.

The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §19-21A-4(g)(11) of this code, relating to the State Conservation Committee (State Conservation Committee Grant Program, 63 CSR 03), is authorized.

§64-9-34. Board of Veterinary Medicine.

(a) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and

refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (organization and operation and licensing of veterinarians, 26 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (registration of veterinary technicians, 26 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (schedule of fees, 26 CSR 06), is authorized with the amendments set forth below:

On page two, Section 3.6, by striking out “\$100.00” and inserting in lieu thereof “\$10.00”;

On page two, Section 3.7, by striking out “\$80.00” and inserting in lieu thereof “\$5.00”;

On page two, Section 3.8, by striking out “\$25.00” and inserting in lieu thereof “\$2.00”;

And,

On page two, Section 3.9, by striking out “\$80.00” and inserting in lieu thereof “\$6.00”.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4252 - “A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain miscellaneous agencies and boards

to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Board of Acupuncture to promulgate a legislative rule relating to fees for the Board of Acupuncture; authorizing the Board of Acupuncture to promulgate a legislative rule relating to auricular detoxification therapy certificate; authorizing the Board of Acupuncture to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Acupuncture to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to grade "A" pasteurized milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia manufacture-grade milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to employment reference and inquiries and background checks; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Spay-Neuter Assistance Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia exempted dairy farms and

milk and milk products processing rules; authorizing the Board of Architects to promulgate a legislative rule relating to registration of architects; authorizing the Board of Architects to promulgate a legislative rule relating to fees for registration of architects; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Dentistry to promulgate a legislative rule relating to rule for the West Virginia Board of Dental Examiners; authorizing the Board of Dentistry to promulgate a legislative rule relating to dental advertising; authorizing the Board of Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Dietitians to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Election Commission to promulgate a legislative rule relating to corporate and membership organization political activity; authorizing the Election Commission to promulgate a legislative rule relating to regulation of campaign finance; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Massage Therapy

Licensure Board to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to fees for services rendered by the Board; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Optometry to promulgate a legislative rule relating to rules for the West Virginia Board of Optometry; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for centralized prescription processing; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations

governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist assistant; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Registration for Professional Engineers to promulgate a legislative rule relating to examination, licensure and practice of professional engineers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Board of Psychologists to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real Estate Commission to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Commission to promulgate a legislative rule relating to consideration of prior criminal convictions in initial license eligibility determination; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to

establishment of fees; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to student temporary permit; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Sanitarians to promulgate a legislative rule relating to waiver of initial application fees and criteria for initial licensure; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Board of Social Work to promulgate a legislative rule relating to fee schedule; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to disciplinary and complaint procedures for speech-language pathology and audiology; authorizing the State Auditor to promulgate a legislative rule relating to local government purchasing card program; authorizing the State Conservation Committee to promulgate a legislative rule relating to State Conservation Committee Grant Program; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization and operation and licensing of veterinarians; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to registration of veterinary technicians; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to schedule of fees.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 690**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Bibby, N. Brown, Higginbotham and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4252) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 691**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: P. Martin and Paynter.

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4252) takes effect from passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4378, Relating to disciplining teachers.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-8. Suspension and dismissal of school personnel by board; appeal.

(a) Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, intemperance,

willful neglect of duty, unsatisfactory performance, a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 *et seq.* of this code, the conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee's job, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse may be reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted. A county board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation.

(e) It shall be the duty of any county superintendent to report any employee suspended or dismissed, or resigned during the

course of an investigation of the employee's alleged misconduct, in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent within seven business days of the suspension, dismissal, or resignation. The state superintendent shall maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the learning environment of other students. The database shall also include the rationale for the suspension or dismissal. The database shall be confidential and shall only be accessible to county human resource directors, county superintendents, and the state superintendent.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-6. Ground Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and recalling certificates for correction.

(a) The State Superintendent may, after 10 days' notice and upon proper evidence, revoke or suspend the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The State Superintendent shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The State Superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate

denials and make recommendations for action by the State Superintendent. The State Superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the State Superintendent.

~~(b) Provided further, That~~ A teacher, as defined by West Virginia Code §18-1-1(g), convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, any criminal offense that requires the teacher to register as a sex offender, or any criminal offense which has as an element delivery or distribution of a controlled substance, or pleads guilty to or is convicted under the provisions of §61-2-1 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1, shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this State or the United States, the teacher's certification shall be reinstated unless otherwise prohibited by law.

(c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in grooming a student or minor shall have his or her license revoked for a period of time not less than five years. For the purposes of this subsection, 'grooming a student or minor' means befriending and establishing an emotional connection with a student or minor, which may

include the family of the student or minor, to lower the student's or minor's inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a license shall be revoked under this subsection.

~~(b)~~ (d) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report this, together with all the facts and evidence, to the State Superintendent for such action as in the State Superintendent's judgment may be proper.

~~(e)~~ (e) If a certificate has been granted through an error, oversight, or misinformation, the State Superintendent may recall the certificate and make such corrections as will conform to the requirements of law and the state board.

(f) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual's certificate is subsequently reinstated by the state superintendent.

(g) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(h) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(i) The state board may propose legislative rules pursuant to §29A-3B-1 et seq. of this code that are necessary to implement the provisions of this section."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4378 - “A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended; and to amend §18A-3-6 of said code, all relating to school personnel; requiring a county board of education to complete an investigation of an employee that involves evidence that the employee may have engaged in certain conduct despite the employee’s resignation; limiting time period for a county superintendent to report any employee suspended, dismissed, or who resigned during the course of an investigation of the employee’s alleged misconduct; authorizing suspension of teaching certificate in certain instances and for certain causes; authorizing additional sanction options by the state superintendent with respect to violations; authorizing superintendent to issue subpoenas to aid investigation of allegations against persons subject to licensure; adding to reasons for which a teacher’s certificate or license is automatically revoked; requiring professional relationship with students; providing minimum revocation period for offenses and specifying offenses; defining grooming a student or minor; adding a public school principal and public charter school administrator to the requirement to report certain acts of any teacher to the State Superintendent; requiring the State Superintendent to maintain a public database of individuals who have had adverse action taken against their teaching certificate; providing that individuals whose certificate has been revoked are not eligible to be employed by a county board until their certificate is reinstated; clarifying that all of certain teacher certificate provisions apply to all public school teachers whether employed by a county board or a public charter school governing board; requiring State Superintendent to periodically ensure that county boards are in compliance with certain teacher certificate provisions; and allowing the state board to propose legislative rules that are necessary to implement certain provisions pertaining to action against a teacher certificate.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 692**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4378) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, to take effect July 1, 2020, as amended, of

Com. Sub. for H. B. 4438, Relating to the licensing of advance deposit wagering.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4461, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page three, section two-a, line fifty-eight, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

“(e) The annual salary of each appointive state officer named in this section shall continue in the amount as set forth in this section from the effective date of the amendments to this section enacted in 2020 until the position held by the officer is vacated. After a vacancy occurs and notwithstanding any other provision of this section to the contrary, the annual salary of each appointed state officer named in this section shall be fixed by the Governor within the current budget allocation. The salary of each appointed

state officer named in this section shall be listed in the appointment letter for the position.”

With the further amendment, sponsored by Delegates Householder and Summers, being as follows:

On page one of the amendment, line three, following the words “enacted in 2020”, by striking out the remainder of the amendment and inserting a comma and the words “whichever occurs first. After the vacancy or after July 1, 2020, whichever occurs first, unless otherwise prohibited by law, the annual salary of each appointed state officer named in this section shall be fixed by the Governor within the current budget allocation. In the event the annual salary fixed by the Governor for an appointed state officer named in this section exceeds the amount set forth in this section for the appointed state officer, the amount of the annual salary for the appointed state officer shall be set forth in a line-item in the budget bill, and payment of an annual salary to the appointed state officer may not exceed that amount but may be lower than the salary approved in the budget bill or established in this section. The salary of a newly appointed state officer named in this section shall be included in the appointment letter for the position.”

And,

The further title amendment sponsored by Delegates Summers and Householder amending the title of the bill to read as follows:

Com. Sub. for H. B. 4461 - “A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended, relating to requiring the Governor to fix the annual salaries of certain state appointed officers after the office is vacated or after July 1, 2020, whichever occurs first; requiring that the salary be within the current budget allocation; requiring the amount of the annual salary for appointed state officer be set forth in a line-item in the budget bill; limiting payment of salary to amount approved in budget bill; allowing lower salaries; and requiring that the salary of each such appointed state officer be listed in the appointment letter for the position.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 693**), and there were—yeas 84, nays 13, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Butler, Canestraro, Diserio, Foster, Kessinger, P. Martin, Paynter, Steele, C. Thompson, Waxman, Wilson and Zukoff.

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4461) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4668, Creating the misdemeanor crime of trespass for entering a structure that has been condemned.

Delegate Kessinger moved the House of Delegates concur in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3B. TRESPASS.

§61-3B-2. Trespass in structure or conveyance.

(a) Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of ~~such~~ the owner or

tenant, and refuses to do so, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$100.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who, without permission, knowingly and willfully enters a structure which has a clear posting that the structure has been condemned by any municipal or county government as unfit for human habitation or use, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100, or confined in jail not more than six months, or both fined and confined: *Provided*, That for any first violation of this subsection offense of trespass on condemned property, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

~~(b)(c)~~ (c) If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the intent to do bodily injury to a human being in ~~said~~ the structure or conveyance at the time the offender knowingly trespasses, ~~such~~ the offender ~~shall~~, notwithstanding the provisions of §61-7-1 of this code, be is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, or be confined in ~~the county~~ jail for ~~a period not to exceed~~ not more than one year, or both ~~such fined and imprisonment~~ confined.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4668 - “A Bill to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating to creating the misdemeanor crime of trespass for entering a structure that has been clearly marked as condemned by a municipality as unfit for human habitation; providing criminal penalty; removing inconsistent language as to intent; and providing that for a first offense, a municipal judge or magistrate may impose community service or pretrial diversion in lieu of a fine or confinement.”

On the motion to concur, the House of Delegates divided and the motion was adopted.

Delegate Fleischauer moved to reconsider the vote by which the House in concurred in the Senate amendments.

On this question, the yeas and nays were taken (**Roll No. 694**), and there were—yeas 54, nays 46, absent and not voting none, with the nays being as follows:

Nays: Atkinson, Azinger, Bates, N. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Criss, Diserio, Espinosa, Evans, Fluharty, Hanna, Hartman, Hicks, Hornbuckle, Hott, Householder, D. Kelly, J. Kelly, Lavender-Bowe, Linville, Little, Longstreth, Lovejoy, Mandt, P. Martin, Maynard, McGeehan, Miley, Nelson, Paynter, Pushkin, Robinson, Rodighiero, Skaff, Sponaugle, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Wilson, Zukoff and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative the motion was adopted.

The question being on concurring in the amendments of the bill by the Senate, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 695**), and there were—yeas 70, nays 29, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barnhart, Barrett, Bartlett, Bibby, S. Brown, Butler, Cadle, Doyle, Fast, Fleischauer, Foster, Graves, Hamrick, Higginbotham, D. Jeffries, J. Jeffries, Kessinger, Kump, C. Martin, Pack, Phillips, Porterfield, Queen, Steele, Summers, Toney, Walker, Waxman and Westfall.

Absent and Not Voting: Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the House concurred in the Senate amendments.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 696**), and there were—yeas 81, nays 18, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, S. Brown, Doyle, Estep-Burton, Fluharty, Foster, Graves, Lavender-Bowe, C. Martin, Pack, Paynter, Sponaugle, Steele, Summers, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4668) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

S. B. 842, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section thirteen, subsection (c), line thirty-three, by striking out “F” and inserting in lieu thereof the words “D, at a minimum,”.

On page two, section thirteen, line twenty-eight, by striking out the word “a” and inserting in lieu thereof the words “an advisory”.

And,

On page two, section thirteen, line twenty-nine, by striking out the word “establish” and inserting in lieu thereof the words “advise the county superintendent and county board on”.

And,

By amending the title of the bill to read as follows:

S. B. 842 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in limited number of county school districts for the duration of three years; making findings; setting forth criteria to be used in the selection of the county school districts; allowing the county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene an advisory committee consisting of certain school personnel and the education organizations to advise on qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; setting a minimum pay grade in case of service person position; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report and final report with certain information to the Legislative Oversight Commission on Education Accountability.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 697**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Butler, Cadle and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 842) passed.

Delegate Summers moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 698**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Butler and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 842) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 144, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 289, Creating Green Alert Plan.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 490, Relating to criminal offenses against agricultural facilities.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2020, of

Com. Sub. for S. B. 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 614, Changing method of allocating funding from Safe School Funds.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect July 1, 2020, of

Com. Sub. for S. B. 662, Removing restrictions on fiduciary commissioners.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 668, Enacting Uniform Trust Decanting Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 678, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 750, Establishing extended learning opportunities.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 812, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services.

Miscellaneous Business

Pursuant to House Rule 94b, a form was filed with the Clerk's Office to be added as a cosponsor of the following:

- Delegate Pyles for H. B. 3026

Delegate Williams noted to the Clerk that he was absent when the vote was taken on S. B. 716, and had he been present, he would have voted "Yea" thereon.

Delegate Sypolt noted to the Clerk that she was absent when the vote was taken on Com. Sub. for H. B. 4361, and had she been present, she would have voted "Yea" thereon.

At 5:45 p.m., the House of Delegates adjourned until 10:00 a.m., Saturday, March 7, 2020.